

LICENSE AGREEMENT

By and between

THE TOWN OF ANDOVER

And

(Rave Hospitality Group, LLC d/b/a Elm Square Oyster Company)

THE OWNER AND OPERATOR OF A RESTAURANT LOCATED WITHIN THE TOWN OF ANDOVER

This License Agreement (the "Agreement") is entered into as of the 8th day of April, 2019, by and between the Town of Andover and Rave Hospitality Group, LLC d/b/a Elm Square Oyster Co. The Owner and Operator of a Restaurant located within the Town of Andover.

WITNESSETH:

WHEREAS, Licensee is owner and operator of a Restaurant facility within the Town of Andover located at 2 Elm Square, Andover, Massachusetts (hereinafter "Restaurant Owner");

WHEREAS, Licensor is the Town of Andover (hereinafter the "Town");

WHEREAS, the Restaurant Owner desires to provide the public with outdoor dining in an area shown on the attached plan;

WHEREAS, the Town is seeking a manner through which to facilitate the Restaurant Owner's ability to provide the public with outdoor dining;

WHEREAS, the Town and the Restaurant Owner desire to cooperate to further the above-stated purpose in a way compatible with the public interest;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. License to Provide Outdoor Dining. The Town of Andover hereby grants the Restaurant Owner a revocable license to provide outdoor dining services at its restaurant facility located within the Town of Andover. The Licensee shall comply with the terms of this Agreement, the License granted by the Board of Selectmen, any other license related to the Restaurant Facility, all applicable laws, regulations, and

bylaws and all applicable rules and regulations established by the Board of Selectmen. Within the licensed area, the licensee may put and maintain no more than 16 tables and 32 chairs. All such services will be provided at the sole cost and expense of the Restaurant Owner. The Town of Andover shall not be liable for such cost nor obligated to reimburse the Restaurant Owner for the same. The Restaurant Owner shall be responsible for obtaining all permits or licenses at its expense for the construction of any improvements necessary to the provision of such services.

2. Indemnification. The Restaurant Owner shall indemnify, defend and save harmless the Town of Andover, its officers, and employees from and against all suits, actions, claims, demands, damages, losses, expenses, and costs of every kind and description relating to or arising from the operation, construction, or existence of the outdoor dining facility and service, under this Agreement.

3. Insurance. The Restaurant Owner shall carry or require that there be carried Workers' Compensation Insurance for all employees and those of its contractors and/or subcontractors engaged in work at the outdoor dining facility, in accordance with the State Workers' Compensation Laws. The Restaurant Owner shall furnish a certificate of insurance to the Town evidencing coverage of Workers' Compensation Insurance. In addition, the Restaurant Owner shall carry Comprehensive General Liability and Property Damages Liability Insurance, and if alcoholic beverages are served, Liquor Liability Insurance, with limits hereinafter set forth to cover the Restaurant Owner and its contractors and subcontractors against claims which may occur or result from operations under this Agreement. Such insurance shall cover the use of all equipment related to the provision of outdoor dining services. The Comprehensive General Liability Policy, and if applicable, Liquor Liability Insurance Policy, shall insure against all claims and demands for bodily injury and property damage with respect to the outdoor dining facilities and services, with limits of \$5,000,000 per occurrence and \$5,000,000 in the aggregate. The Town shall be named as an "additional insured" in all policies for such insurance with specific reference as to coverage related to this License Agreement. All such policies shall provide a waiver of subrogation in favor of the Town. The Restaurant Owner (and their heirs, successors and assigns in interest) shall hold harmless, defend and indemnify the Town of Andover and its employees and agents from any responsibility, liability and claims arising out of or related to the operations under this agreement. The Restaurant Owner shall furnish a certificate of insurance to the Town prior to commencing any work, construction or services of the facilities and services authorized under this Agreement. Where such insurance is renewed or replaced the Restaurant Owner shall furnish the Town with a certificate of insurance evidencing same.

4. Maintenance. The Restaurant Owner shall maintain the premises utilized for the provision of outdoor dining facilities and services under this Agreement in a clean and orderly condition. The Restaurant Owner assumes responsibility for the removal of any debris generated by the construction, operation, or existence of the outdoor dining facility and service. These duties assumed by the Restaurant Owner include but are not limited to:

Plant maintenance, lawn maintenance, if any;

General maintenance and cleaning of fixtures;

Sweeping;

Trash removal; and

Security, including the removal of any person who becomes disorderly. The Restaurant owner shall be solely responsible for any costs and losses generated by the above listed, and any other maintenance duties.

5. Term. The License granted herein shall begin after it is approved by the Board of Selectmen and upon execution of this Agreement and payment of the License Fee and shall expire on the October 31st immediately following, unless sooner revoked. Notwithstanding the foregoing sentence this License is revocable at the will of the Andover Board of Selectmen at any time at the total discretion of said

Selectmen. At the expiration or revocation of this License, the Licensee shall promptly remove all furniture and articles placed in the outdoor dining area, and return the area to condition at least as good prior to the issuance of this License.

6. Hours of Operation. The License granted hereunder neither extends the physical description of the Premises nor shortens or extends the hours during which the Licensee may carry on other lawful licensed activities in the premises to which the outdoor dining area is auxiliary.

7. Revocation. The parties covenant and agree that this License is not an interest in land and is revocable at will by the Andover Board of Selectmen for any reason whatsoever upon written notice to the Licensee from the Town. The License will terminate upon Licensee's receipt of said written notice described therein. Licensee acknowledges, covenants and agrees that this License is revocable at will by the Town and the Licensee further acknowledges, covenants and stipulates that in the event of such revocation, the Licensee shall have no recourse or claim against the Town for such revocation whether by way of monetary charges, a suit in equity, or otherwise.

WITNESS, the execution hereof in counterparts under seal as of the date and year first above written.

By _____

Owner and Operator of Restaurant
Located within the Town of Andover

By _____

Chairman, Board of Selectmen

Date: April 8, 2019

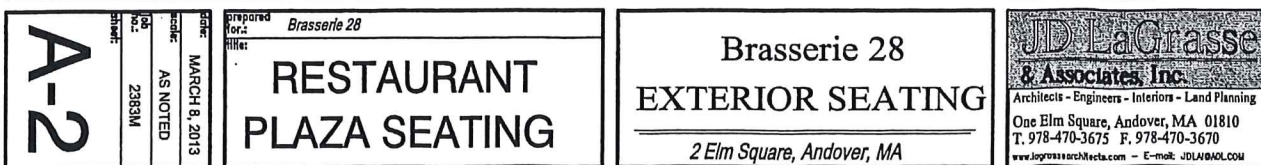
CERTIFICATION OF GOOD FAITH

The undersigned certifies under the pains and penalties of perjury that this contract has been obtained in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity, or group of individuals.

CERTIFICATE OF STATE TAX COMPLIANCE

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A, Rave Hospitality Group, LLC d/b/a Elm Square Oyster Co., whose principal place of business is at 2 Elm square in Andover, MA., does hereby certify under the pains and penalties of perjury that he has paid all Massachusetts taxes and has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Federal Identification No. of Rave Hospitality Group, LLC:	82-1627200
Licensee	Number



ELM SQUARE OYSTER CO. OUTDOOR DINING LICENSE MOTION

MOTION:

I move to approve the application of Rave Hospitality Group LLC d/b/a Elm Square Oyster Co., 2 Elm Square for an Outdoor Dining License of 32 seats, 16 tables along Main Street as show as Outdoor Seating Area A in Plan A-2 dated March 8, 2013 subject to the following conditions:

- 1) That all other requirements of the Town are met prior to issuance and
- 2) Outdoor Seating Area B along Post Office Avenue comply with Zoning Board of Appeals Special Permit decision number 3940.

Motion by: _____

Seconded by: _____

Yes: _____

No: _____

LICENSE AGREEMENT

By and between

THE TOWN OF ANDOVER

And

Ultimate Perk, Inc.

THE OWNER AND OPERATOR OF A RESTAURANT LOCATED WITHIN THE TOWN OF ANDOVER

This License Agreement (the "Agreement") is entered into as of the 8th day of April, 2019 by and between the Town of Andover and Ultimate Perk, Inc. The Owner and Operator of a Restaurant located within the Town of Andover.

WITNESSETH:

WHEREAS, Licensee is owner and operator of a Restaurant facility within the Town of Andover located at 96 ½ Main Street, Andover, MA. (hereinafter "Restaurant Owner");

WHEREAS, Licensor is the Town of Andover (hereinafter the "Town");

WHEREAS, the Restaurant Owner desires to provide the public with outdoor dining in an area shown on the attached plan;

WHEREAS, the Town is seeking a manner through which to facilitate the Restaurant Owner's ability to provide the public with outdoor dining;

WHEREAS, the Town and the Restaurant Owner desire to cooperate to further the above-stated purpose in a way compatible with the public interest;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. License to Provide Outdoor Dining. The Town of Andover hereby grants the Restaurant Owner a revocable license to provide outdoor dining services at its restaurant facility located within the Town of Andover. The Licensee shall comply with the terms of this Agreement, the License granted by the Board of Selectmen, any other license related to the Restaurant Facility, all applicable laws, regulations, and

bylaws and all applicable rules and regulations established by the Board of Selectmen. Within the licensed area, the licensee may put and maintain no more than 4 tables and 8 chairs. All such services will be provided at the sole cost and expense of the Restaurant Owner. The Town of Andover shall not be liable for such cost nor obligated to reimburse the Restaurant Owner for the same. The Restaurant Owner shall be responsible for obtaining all permits or licenses at its expense for the construction of any improvements necessary to the provision of such services.

2. Indemnification. The Restaurant Owner shall indemnify, defend and save harmless the Town of Andover, its officers, and employees from and against all suits, actions, claims, demands, damages, losses, expenses, and costs of every kind and description relating to or arising from the operation, construction, or existence of the outdoor dining facility and service, under this Agreement.

3. Insurance. The Restaurant Owner shall carry or require that there be carried Workers' Compensation Insurance for all employees and those of its contractors and/or subcontractors engaged in work at the outdoor dining facility, in accordance with the State Workers' Compensation Laws. The Restaurant Owner shall furnish a certificate of insurance to the Town evidencing coverage of Workers' Compensation Insurance. In addition, the Restaurant Owner shall carry Comprehensive General Liability and Property Damages Liability Insurance, and if alcoholic beverages are served, Liquor Liability Insurance, with limits hereinafter set forth to cover the Restaurant Owner and its contractors and subcontractors against claims which may occur or result from operations under this Agreement. Such insurance shall cover the use of all equipment related to the provision of outdoor dining services. The Comprehensive General Liability Policy, and if applicable, Liquor Liability Insurance Policy, shall insure against all claims and demands for bodily injury and property damage with respect to the outdoor dining facilities and services, with limits of \$5,000,000 per occurrence and \$5,000,000 in the aggregate. The Town shall be named as an "additional insured" in all policies for such insurance with specific reference as to coverage related to this License Agreement. All such policies shall provide a waiver of subrogation in favor of the Town. The Restaurant Owner (and their heirs, successors and assigns in interest) shall hold harmless, defend and indemnify the Town of Andover and its employees and agents from any responsibility, liability and claims arising out of or related to the operations under this agreement. The Restaurant Owner shall furnish a certificate of insurance to the Town prior to commencing any work, construction or services of the facilities and services authorized under this Agreement. Where such insurance is renewed or replaced the Restaurant Owner shall furnish the Town with a certificate of insurance evidencing same.

4. Maintenance. The Restaurant Owner shall maintain the premises utilized for the provision of outdoor dining facilities and services under this Agreement in a clean and orderly condition. The Restaurant Owner assumes responsibility for the removal of any debris generated by the construction, operation, or existence of the outdoor dining facility and service. These duties assumed by the Restaurant Owner include but are not limited to:

- Plant maintenance, lawn maintenance, if any;

- General maintenance and cleaning of fixtures;

- Sweeping;

- Trash removal; and

Security, including the removal of any person who becomes disorderly. The Restaurant owner shall be solely responsible for any costs and losses generated by the above listed, and any other maintenance duties.

5. Term. The License granted herein shall begin after it is approved by the Board of Selectmen and upon execution of this Agreement and payment of the License Fee and shall expire on the October 31st immediately following, unless sooner revoked. Notwithstanding the foregoing sentence this License is revocable at the will of the Andover Board of Selectmen at any time at the total discretion of said

Selectmen. At the expiration or revocation of this License, the Licensee shall promptly remove all furniture and articles placed in the outdoor dining area, and return the area to condition at least as good prior to the issuance of this License.

6. Hours of Operation. The License granted hereunder neither extends the physical description of the Premises nor shortens or extends the hours during which the Licensee may carry on other lawful licensed activities in the premises to which the outdoor dining area is auxiliary.

7. Revocation. The parties covenant and agree that this License is not an interest in land and is revocable at will by the Andover Board of Selectmen for any reason whatsoever upon written notice to the Licensee from the Town. The License will terminate upon Licensee's receipt of said written notice described therein. Licensee acknowledges, covenants and agrees that this License is revocable at will by the Town and the Licensee further acknowledges, covenants and stipulates that in the event of such revocation, the Licensee shall have no recourse or claim against the Town for such revocation whether by way of monetary charges, a suit in equity, or otherwise.

WITNESS, the execution hereof in counterparts under seal as of the date and year first above written.

By _____

Owner and Operator of Restaurant
Located within the Town of Andover

By _____

Chairman, Board of Selectmen

Date: April 8, 2019

CERTIFICATION OF GOOD FAITH

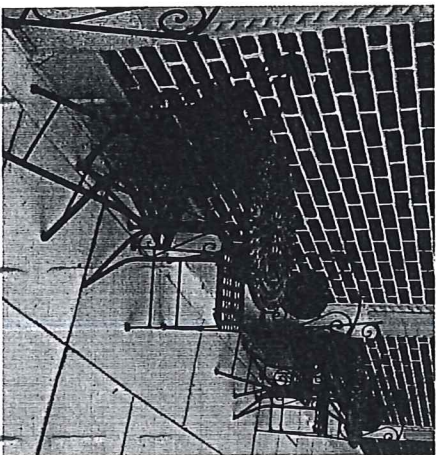
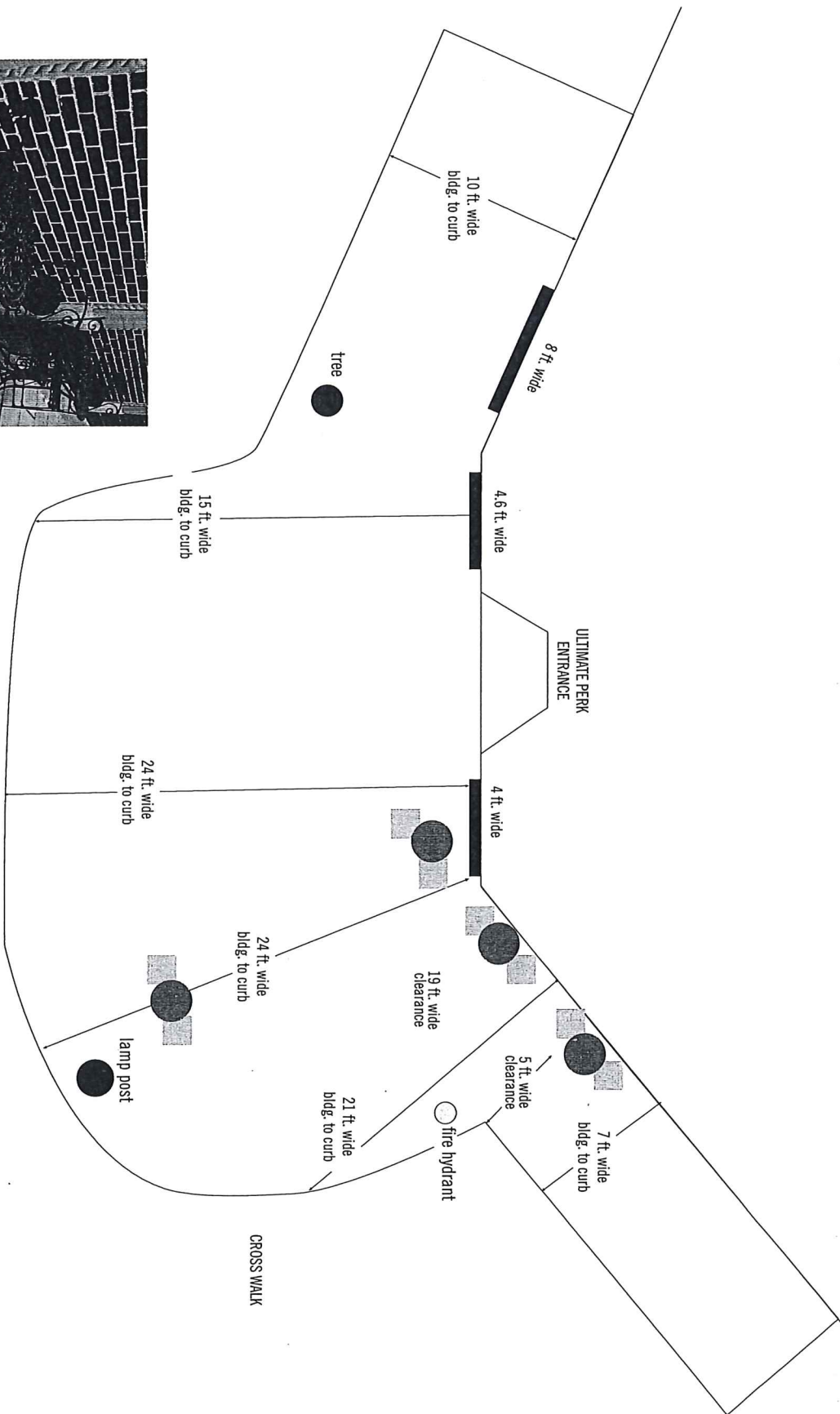
The undersigned certifies under the pains and penalties of perjury that this contract has been obtained in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity, or group of individuals.

CERTIFICATE OF STATE TAX COMPLIANCE

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A, Ultimate Perk, Inc., whose principal place of business is at 96 ½ Main Street, Andover, MA., does hereby certify under the pains and penalties of perjury that he has paid all Massachusetts taxes and has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Federal Identification No. of Ultimate Perk, Inc.:
Licensee

56-2324014
Number



Ultimate Perk Outdoor Seating Plans

TABLES, 24" WIDE CIRCULAR CHAIRS 14" WIDE SQUARE PLACED 36" OR MORE APART

ULTIMATE PERK OUTDOOR DINING LICENSE MOTION

MOTION:

I move to approve the application of Ultimate Perk, Inc. d/b/a Ultimate Perk, 96 ½ Main Street, for an Outdoor Dining License of 8 seats, 4 tables as shown on submitted “Ultimate Perk Outdoor Seating Plans” subject to the following conditions:

- 1) That all other requirements of the Town are met prior to issuance and
- 2) Maximum of 10 seats combined indoor and outdoor seating

Motion by: _____

Seconded by: _____

Yes: _____

No: _____

RECEIVED
FEB 01 2019
BOARD OF HEALTH

January 25, 2019

Mr. Andrew P. Flanagan
Town Manager
Town of Andover
36 Bartlet Street
Andover, MA 01810

RE: Sewer Use Agreement

Dear Mr. Flanagan:

I represent Dascomb Road Limited Partnership which owns certain improved commercial real property located at 160 Dascomb Road in Andover. The improvements on this property are primarily located in Andover but pursuant to various existing intermunicipal and private agreements is served by Tewksbury's sanitary sewer system ultimately being treated in Lowell's wastewater treatment facility, with a daily limit of 7,500 GPD. Attached please find three (3) originals of a certain final and partially executed Sewer Use Agreement (the "Sewer Use Agreement") forwarded to me by Charles Zaroulis, Town Counsel to the Town of Tewksbury. In sum, my client and the Town of Tewksbury have negotiated and executed this Sewer Use Agreement providing for an extension of the term of existing agreements commencing on the expiration date of existing agreements (ie. August 31, 2024) and expiring on the later to occur of June 30, 2037 or existing intermunicipal agreements (as further discussed in the attached agreement). My client undertook this negotiation given the existing agreements expire in seven (7) years and its desire to assure future sewer capacity to this property. This Sewer Use Agreement has been fully negotiated over a period of several months between my client, Attorney Zaroulis and Tewksbury Town Officials with the goal of creating a well drafted agreement addressing all issues related to this ongoing contractual arrangement. My purpose in sending these agreements to you is to request that you and the Chairman of the Board of Selectman, after ample time to review and consider, execute same. While the Town of Andover has a limited role in these existing series of agreements providing public sewer access to this property through infrastructure provided by abutting municipalities, they are an existing party to certain private agreements referenced in the Sewer Use Agreement, and thus its consent is being requested and is appropriate, as is the consent of the City of Lowell for similar reasons. I would be happy to meet with you and/or the Board of Selectman to further discuss this request and the underlying Sewer Use Agreement at your convenience.

Tonia Magras

From: Thomas Urbelis <tju@uf-law.com>
Sent: Saturday, March 16, 2019 9:05 AM
To: Tonia Magras
Cc: Andrew Flanagan; Michael Lindstrom; Patrick Lawlor
Subject: FW: Sewer Use Agreement-160 Dascomb Road

Toni.....When this matter is placed on the Selectmen's agenda, please include this email in the Selectmen's packet. Thanks.

Tom

From: Arthur Martineau [mailto:amartineau@andoverma.gov]
Sent: Wednesday, February 20, 2019 11:12 AM
To: Thomas Carbone; Thomas Urbelis; Christopher Cronin; Chris Clemente
Cc: Carol McGravey
Subject: RE: Sewer Use Agreement

Hi Tom,

DPW is satisfied with the document. It reconciles with our records of what the allowable usage is for that particular parcel and how that usage was obtained. And, like Tom Carbone, we appreciate the delineation of ownership up to the "Vigor" manhole in Dascomb Rd.

Thanks,

*Art Martineau
Acting Town Engineer
Engineering Division
Department of Public Works
397 Lowell Street
Andover, MA 01810-4416
Tel: 978-623-8772*

From: Thomas Carbone
Sent: Wednesday, February 20, 2019 8:37 AM
To: Thomas Urbelis <tju@uf-law.com>; Christopher Cronin <ccronin@andoverma.gov>; Arthur Martineau <amartineau@andoverma.gov>; Chris Clemente <cclemente@andoverma.gov>
Cc: Carol McGravey <chm@uf-law.com>
Subject: RE: Sewer Use Agreement

I looked through this this morning and don't have any concerns. It looks like the document (on page 3) describes the sewer connection accurately, and states that for the purpose of the agreement, Smith & Nephew has a responsibility to maintain the sewer system from their foundation through the receiving manhole and beyond; being clear as to who must maintain what sections of a private sewer has always been one of my concerns, but I think this is adequate.

Thomas G. Carbone

Director of Public Health
36 Bartlet St.
Andover, MA 01810

Tel. : 978-623-8640
Fax: 978-623-8694

From: Thomas Urbelis [<mailto:tju@uf-law.com>]
Sent: Wednesday, February 13, 2019 3:37 PM
To: Christopher Cronin <ccronin@andoverma.gov>; Arthur Martineau <amartineau@andoverma.gov>; Thomas Carbone <tcarbone@andoverma.gov>; Chris Clemente <cclemente@andoverma.gov>
Cc: Carol McGravey <chm@uf-law.com>
Subject: Sewer Use Agreement

Did not know if you have seen these documents.

SEWER USE AGREEMENT

THIS SEWER USE AGREEMENT (this "Agreement") is entered into this ____ day of _____, 201____, by and between DASCOMB ROAD LIMITED PARTNERSHIP, a Delaware limited partnership ("**160 Dascomb Road Owner**"), the TOWN OF TEWKSBURY, MASSACHUSETTS, a municipality located in the Commonwealth of Massachusetts, having an address of 1009 Main Street, Tewksbury, Massachusetts 01876 ("**Tewksbury**"), the TOWN OF ANDOVER, MASSACHUSETTS, a municipality located in the Commonwealth of Massachusetts, having an address of 36 Bartlett Street, Andover, Massachusetts 01810 ("**Andover**"), and with the consent of the CITY OF LOWELL, MASSACHUSETTS, having an address of 375 Merrimack Street, Lowell, Massachusetts 01852 ("**Lowell**"). Dascomb Road, Andover and Tewksbury are sometimes individually referred to herein as a "Party" and collectively as the "Parties" as the context may require.

RECITALS

WHEREAS, pursuant to that certain Quitclaim Deed dated December 11, 2016 from Smith & Nephew, Inc. (f/k/a Smith & Nephew Endoscopy, Inc. ("**Smith & Nephew**") to Dascomb Road, which Quitclaim Deed is recorded with the Essex North District Registry of Deeds at Book 10542, Page 16 and also recorded with the Middlesex North Registry of Deeds at Book 20802, Page 36, 160 Dascomb Road Owner is the current fee owner of the certain improved real property commonly known and numbered as 160 Dascomb Road, Andover, Essex County, Massachusetts and 1635 Shawsheen Street, Tewksbury, Middlesex County, Massachusetts (the "**Property**"), as more fully depicted on Exhibit "A" attached hereto (the "**Site Plan**"); and

WHEREAS, Tewksbury's Sanitary Sewer System (the "**Tewksbury Sewer System**") is connected to the wastewater treatment system owned and operated by Lowell (the "**Lowell Wastewater Treatment System**") pursuant to a written agreement between Tewksbury and Lowell (the "**Lowell-Tewksbury Sewer Agreement**") which agreement is coterminous with the IMA and presently terminates on June 30, 2037; and

WHEREAS, Lowell has implemented a pretreatment program to control discharges from all industrial users of the Lowell Wastewater Treatment System pursuant to 40 C.F.R. Part 403; and

WHEREAS, both Tewksbury and Andover have each adopted Lowell's Industrial Sewer Use Rules and Regulations which subject the Property and other users who are located within the Town of Andover and who contribute wastewater to the Lowell Wastewater Treatment System to the required pretreatment controls; and

WHEREAS, pursuant to that certain Agreement dated May 31, 1988 by and between Tewksbury and Brockway-Smith Company (the "**1988 Brockway Smith/Sebago Agreement**"), Tewksbury allocated to Brockway-Smith the right to connect into the Tewksbury Sewer System with a usage limitation of 20,000.00 gallons per day; and

WHEREAS, pursuant to Paragraph 2 of that certain Agreement dated August 31, 1998 entered into by and among Tewksbury, Andover, and Vicor Corporation, a Delaware corporation ("**Vicor**"), which Agreement is recorded with the Essex North District Registry District of the Land Court as Document Number 68717 as noted on Certificate Number 12678 in Registration Book 97, Page 317 (together with all amendments, extensions, restatements and modifications thereto, the "**Original Vicor Sewer Use Agreement**"), 160 Dascomb Road Owner as the successor-in-title to Smith & Nephew and current fee owner of the Property, is entitled (by virtue of an assignment agreement between Vicor and Smith & Nephew with respect to such rights) to extend, connect to and use the Tewksbury Sewer System in connection with 160 Dascomb Road Owner's ownership of the Property for sewage and/or wastewater discharge of up to five thousand (5,000) gallons per day; and

WHEREAS, pursuant to that certain Partial Assignment of Agreement/License dated October 2, 1997 (the "**Brockway Smith/Sebago Sewer Rights Assignment Agreement**") by and between Brockway-Smith Company and Sebago-Andover Realty Trust, as assignors ("**Brockway Smith/Sebago**"), and Smith and Nephew, as assignees, 160 Dascomb Road Owner, as the successor-in-title to Smith & Nephew, is entitled (by virtue of an assignment agreement between Brockway Smith/Sebago and Smith & Nephew with respect to such rights as originally granted to Brockway Smith/Sebago under the 1988 Brockway Smith Agreement) to extend, connect and use the Tewksbury Sewer System in connection with 160 Dascomb Road Owner's ownership of the Property for sewage and/or wastewater discharge of up to two thousand five hundred (2,500) gallons per day; and

WHEREAS, by virtue of that certain Agreement dated July 26, 1999 (the "**1999 Brockway Smith/Sebago Agreement**") by and between Sebago Andover Realty Trust, Tewksbury, and Andover, and in conjunction with the subdivision of the existing parcel owned by Sebago Andover Realty Trust (which entire parcel was subject to the 1988 Brockway Smith Agreement) and creation of a 9.247 acre subdivided parcel located at 150 Dascomb Road, Andover, MA 01810 (the "**150 Dascomb Road Parcel**"), the 150 Dascomb Road Parcel was granted the right to connect into the Tewksbury Sewer System with a usage limitation of 5,000.00 gallons per day, which allocation was deducted from the maximum usage limitations allocated to the entire subdivided lot under the 1988 Brockway Smith Agreement (resulting in such lot being presently allocated maximum sewage and/or wastewater discharge limitations of 12,500.00 gallons per day); and

WHEREAS, pursuant to the Original Vicor Sewer Use Agreement and Brockway Smith/Sebago Sewer Rights Assignment Agreement, 160 Dascomb Road Owner is entitled to extend, connect and use the Tewksbury Sewer System by and through the 160 Dascomb Road Sewer Connection, for total sewage and/or wastewater discharge of up to, and not to exceed, seven thousand five hundred (7,500) gallons per day; and

WHEREAS, Tewksbury and Andover (approved by Lowell) have entered into a sewer Intermunicipal Agreement dated August 31, 1998 (the “**IMA**”) which allows users located in Andover to extend, connect and use the Tewksbury Sewer System, as subject to Lowell's Industrial Sewer Use Rules and Regulations and the Lowell-Tewksbury Sewer Agreement; and

WHEREAS, the Property is presently connected to (and uses) the Tewksbury Sewer System by and through a sewer extension connection infrastructure connected at the rear of the existing building on the Property with sewer discharge/ wastewater initially discharged into a pumping chamber located at the rear of said building on the Property and then pumped through a dedicated forcemain system as depicted on the Site Plan as “**FM**” running easterly along the Property until intersecting with Smith Drive, thence northerly along Smith Drive to the intersection with Dascomb Road to a sanitary sewer manhole as depicted on the attached SMH plan as Exhibit “**B**” (the “**SMH Plan**”), thence westerly to the sanitary sewer manhole immediately past utility pole 77-13 along Dascomb Road as shown on said plan (with such sanitary sewer manhole shared with an abutting property owner, thence crossing diagonally underneath Dascomb Road through a sanitary sewer manhole underneath the roadway and ending in a sanitary sewer manhole on the opposite side of this roadway to the designated “**Existing SMH**” on the northerly side of Dascomb Road per the SMH Plan (with such “**Existing SMH**” being defined herein as the “**Northern Dascomb Road SMH**”), and ultimately discharging into the Tewksbury Sewer System. For purposes of this Agreement, the portion of the sewer extension and/or infrastructure serving the Property for the benefit of the 160 Dascomb Road Owner (i.e. running from the existing building on the Property and running along and underneath Dascomb Road to the Northern Dascomb Road SMH per the SMH Plan shall be referenced as the “**160 Dascomb Road Sewer Connection**” with the remainder of the sewer extension system connected thereto (i.e. the portion running from the Northern Dascomb Road SMH and ultimately entering the Tewksbury Sewer System) excluded therefrom.

WHEREAS, pursuant to the terms of the Original Vicor Sewer Use Agreement, the Original Sewer Vicor Use Agreement is scheduled to expire on or before August 31, 2023; and

WHEREAS, the Parties desire to enter into this Agreement to evidence 160 Dascomb Road Owner's (and any future owner of the Property) continued and uninterrupted rights to extend, connect and use the Tewksbury Sewer System, by and through the 160 Dascomb Road Sewer Connection, and discharge wastewater to the Lowell Wastewater Treatment System after the expiration of the Original Vicor Sewer Use Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. 160 Dascomb Road Owner is hereby authorized, at its sole cost and expense, to maintain its connection to and use of the Tewksbury Sewer System by and through the 160 Dascomb Road Sewer Connection in association with its ownership of the Property. **[NOTE, THIS TIES OUT TO PARA. 1 USE PROVISIONS UNDER ORIGINAL VICOR SEWER USE AGREEMENT]**
2. 160 Dascomb Road Owner shall by virtue of this Agreement have the right to a usage capacity of a maximum flow of 7,500 gallons per day as determined by Massachusetts Department of Environmental Protection Regulations Title V design flow calculations (310 CMR 15.203) ("**Maximum Capacity**"). The wastewater and/or sewer flow generated by the Property and discharged into the Tewksbury Sewer System, by and through the 160 Dascomb Road Sewer Connection, shall not contain any "Industrial Waste" or "Industrial Wastewater" as defined by 314 CMR 7.02. **[THIS IS ADDED PROVISION TO CONFIRM MAXIMUM GPD PER EXISTING AGREEMENTS WITH ADDED PROVISIONS AS REQUESTED BY TEWKSBURY]**
3. 160 Dascomb Road Owner shall determine and certify to Tewksbury and Andover upon request that there is and will be no well water or unmetered sources of flow/sewage that will be discharged into the Tewksbury Sewer System through the 160 Dascomb Road Sewer Connection from the Property. Any well water or unmetered sources of flow/sewage entering the Tewksbury Sewer System through the 160 Dascomb Road Sewer Connection will constitute a source of Infiltration and/or Inflow (I/I). **[THIS IS ADDED PROVISION TO CONFIRM MAXIMUM GPD PER EXISTING AGREEMENTS WITH ADDED PROVISIONS AS REQUESTED BY TEWKSBURY]**
4. 160 Dascomb Road Owner will investigate and submit a report to Tewksbury regarding the amount of I/I into the Tewksbury Sewer System through the 160 Dascomb Road Sewer Connection every (5) five years unless there is an event that Tewksbury determines, in its reasonable discretion, requires an earlier investigation. The cost of the investigation and report shall be borne by the 160 Dascomb Road Owner. Tewksbury and Andover shall have the right at all times to investigate the amount of I/I into any portion of the 160 Dascomb Road Sewer Connection. 160 Dascomb Road Owner shall be responsible to remove all sources of I/I from the 160 Dascomb Road Sewer Connection. **[THIS IS ADDED PROVISION TO CONFIRM MAXIMUM GPD PER EXISTING AGREEMENTS WITH ADDED PROVISIONS AS REQUESTED BY TEWKSBURY]**
5. If I/I has been found to enter any portion of the 160 Dascomb Road Sewer Connection, 160 Dascomb Road Owner shall be required to submit to Tewksbury and Andover, within 160 Dascomb Road Owner's five-year report, the sources of I/I and a program and schedule to eliminate the flow. The plan shall (a) provide for the identification and elimination of sources of groundwater and stormwater infiltration as well as other sources of inflow, (b) address inflow and infiltration which occurs as a result of, among other things, defects in pipes, manholes or the sewer system,

stormwater, surface water, groundwater, roof run off or subsurface drainage. Documentation of the volume, location and work completed relative to I/I shall be provided after work to eliminate flows have been completed. **[THIS IS ADDED PROVISION TO CONFIRM MAXIMUM GPD PER EXISTING AGREEMENTS WITH ADDED PROVISIONS AS REQUESTED BY TEWKSBURY]**

6. Any and all grease trap regulations promulgated by the Tewksbury Board of Health and the Andover Board of Health are incorporated herein by reference. The 160 Dascomb Road Owner shall fully comply with the more stringent grease trap regulations as between the Tewksbury and Andover as such regulations relate to the installation and maintenance of any trap which may be required. **[THIS IS ADDED PROVISION TO CONFIRM MAXIMUM GPD PER EXISTING AGREEMENTS WITH ADDED PROVISIONS AS REQUESTED BY TEWKSBURY]**
7. The 160 Dascomb Road Owner shall fully comply with any applicable sewer use rules and regulations which may be adopted from time to time by Tewksbury, Andover or Lowell during the term of this Agreement, as the same may be revised or amended from time to time. The 160 Dascomb Road Owner acknowledges that Tewksbury, Andover, and Lowell are authorized to enforce all applicable Sewer Use Rules and Regulations. The 160 Dascomb Road Owner acknowledges and recognizes the rights and obligations of the municipalities as set forth in the IMA. The terms of said IMA are incorporated herein by reference. **[THIS EXPANDS UPON PROVISIONS UNDER PARAGRAPHS 4 -6 OF ORIGINAL VICOR SEWER USE AGREEMENT]**
8. The 160 Dascomb Road Owner agrees to indemnify, defend and hold harmless Andover, Tewksbury, and/or Lowell, their agents, employees, attorneys, officers and directors from and against any and all liabilities, claims, penalties, fines, forfeitures, suits, judgments, administrative proceedings, actions, debts, costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), which may be brought against Andover, Tewksbury and/or Lowell or which the municipalities may incur, become responsible for, or pay out as the result of (i) death or bodily injury to any person, (ii) destruction or damage to any property or (iii) any violation or alleged violation of any governmental law or regulation, all caused in whole or in part by or resulting from the acts of the 160 Dascomb Road Owner, its officers, employees, contractors or agents in conjunction with the 160 Dascomb Road Sewer Connection or otherwise arising out of or related to the performance of this Agreement. The 160 Dascomb Road Owner shall be entitled to participate in any action, suit or proceeding brought against Andover, Tewksbury and/or Lowell under this paragraph, and to the extent it may wish to do so, to assume the defense thereof. The 160 Dascomb Road Owner shall not be responsible for any settlement or disposition of such suit or proceeding affected without its prior written consent. The 160 Dascomb Road Owner also agrees to indemnify, defend and hold harmless

Andover, Tewksbury, and/or Lowell, its agents, employees, attorneys and officers for all liabilities, awards, judgments, costs and expenses, including attorneys' fees, for suits, actions, demands, claims or proceedings (i) brought against Andover, Tewksbury and/or Lowell as the result of 160 Dascomb Road Owner's alleged failure to comply with any applicable sewer use rules and regulations as promulgated, adopted or implemented by Andover and Tewksbury and/or Lowell, (ii) brought against the 160 Dascomb Road Owner as the result of 160 Dascomb Road Owner's alleged failure to comply with any applicable sewer use rules and regulations. Notwithstanding the foregoing, the 160 Dascomb Road Owner under this Agreement (i) shall have no indemnification obligation under this Agreement with respect to any claims arising under or related to any failure of a sewer connection infrastructure or system unrelated to the discharge of wastewater and/or sewage into the Tewksbury Sewer System through the 160 Dascomb Road Sewer System, and (ii) shall retain (and preserve) all rights to pursue any claims as against third parties related to or arising from the discharge into the Tewksbury Sewer System or Lowell Sanitary Sewer System other than by and through the 160 Dascomb Road Sewer Connection. **[THIS MIRRORS PARAGRAPH 7 OF ORIGINAL VICOR SEWER USE AGREEMENT BUT EXPANDS UPON INDEMNITY BY INCLUDING LOWELL (WHICH IS NOT A PARTY TO ORIGINAL AGREEMENT)]**

9. The 160 Dascomb Road Owner pursuant to this Agreement is entitled to maintain its extension and connection to, and use, the Tewksbury Sewer System by and through the 160 Dascomb Road Sewer Connection. The rights granted to the 160 Dascomb Road Owner herein are for the express and exclusive use of the 160 Dascomb Road Owner, or any future owner of the Property, and no other party, with the intent of the Parties that the rights granted to the 160 Dascomb Road Owner shall run with the land; provided, however, none of 160 Dascomb Road Owner or any future owner of the Property shall have any right to exceed the Maximum Capacity. Wherever in this Agreement the term "160 Dascomb Road Owner" is used, it shall mean any successor-in-title to the Property unless otherwise noted. **[THIS IS VARIATION OF THE THEME SET FORTH IN PARAGRAPH 8 OF THE ORIGINAL VICOR SEWER USE AGREEMENT WITH RESPECT TO NOT EXCEEDING CAP AND RIGHTS RUNNING WITH THE LAND]**
10. The 160 Dascomb Road Owner shall have a right to fully (and not partially) assign its rights hereunder only in the event of the sale of the entire Property, but shall not otherwise have a right to assign any such rights, or any portion thereof, absent the written consent of Andover and Tewksbury. **[THIS IS NEW PROVISION TO CONFIRM RIGHTS RUN WITH PROPERTY ON SALE BUT NOT OTHERWISE]**
11. The 160 Dascomb Road Owner represents that it has obtained and shall acquire as necessary all local, state and federal approvals or permits necessary for the 160

Dascomb Road Sewer Connection as provided herein. [VERBATIM
PARAGRAPH 10 OF ORIGINAL VICOR SEWER USE AGREEMENT]

12. All fees, costs and charges relating to the use by the 160 Dascomb Road Owner of the Tewksbury Sewer System shall be billed and collected by Tewksbury. 160 Dascomb Road Owner agrees and shall comply with any other billing, assessing, or reading arrangement which Tewksbury and Andover may enter into after the date of execution of this Agreement. 160 Dascomb Road Owner acknowledges the rights of Andover and/or Tewksbury (howsoever each of said municipalities shall agree from time to time) to bill, collect and lien for the fees, costs and charges relating to the use by 160 Dascomb Road Owner of said sanitary sewer system. In the event that Tewksbury determines that given the location of the Property (i.e. location primarily in Andover) it deems it to be in the best interest of Tewksbury to file any additional instruments in order to confirm its statutory lien rights to secure collection of all fees associated with 160 Dascomb Road Owner's use of the Tewksbury Sewer System, 160 Dascomb Road Owner shall fully cooperate with such efforts (and execute all such instruments upon request). As noted herein, the Property is located in Andover and Tewksbury, while sewer service is provided and billed by Tewksbury. Therefore, notwithstanding anything set forth herein to the contrary, (i) the obtaining and recording with the Essex North District Registry of Deeds or Middlesex North Registry of Deeds of an Andover Municipal Lien Certificate shall not release any lien or charge in favor of Tewksbury as against the Property, and (ii) any purchaser of the Property, any part thereof, must inquire of Tewksbury as to outstanding sewer usage fees or charges and make payment of the same to discharge any lien or charge against the Property, which lien and/or charging rights as against the Property shall remain with Tewksbury until such amounts are fully paid. **[THIS REFLECTS AGREED UPON BILLING PROTOCOL POST ORIGINAL VICOR SEWER USE AGREEMENT BUT LEAVES OPEN ANY FUTURE CHANGE AS BETWEEN TEWKSBURY AND ANDOVER ON BILLING. FOR NOW, I BELIEVE TEWKSBURY JUST DIRECT BILLS THIS TO MY CLIENT. NOT SURE WHETHER 5K WAS EVER PAID]**
13. 160 Dascomb Road Owner, Tewksbury and Andover hereby state and ratify that the 160 Dascomb Road Sewer Connection shall be privately owned and maintained by the 160 Dascomb Road Owner (and others, if applicable), and that neither Tewksbury nor Andover shall approve of any extension, connection or use of the 160 Dascomb Road Sewer Connection or any of its component parts without the express written prior approval of the 160 Dascomb Road Owner. The sole responsibility to operate, maintain and repair the 160 Dascomb Road Sewer Connection shall remain at all times during the term of this Agreement with the 160 Dascomb Road Owner (as subject to its rights to seek contribution from other parties). Neither Tewksbury nor Andover shall have any responsibility for the operation, maintenance and repair of the 160 Dascomb Road Sewer Connection. In the sole opinion of either Tewksbury or Andover, if 160

Dascomb Road Owner fails to maintain and repair the 160 Dascomb Road Sewer Connection, so as to accomplish its purpose, or if the 160 Dascomb Road Sewer Connection is determined to be a threat to public health as determined by the Director of the Andover or Tewksbury Board of Health, then either Tewksbury or Andover may, in its sole but reasonable discretion and without obligation to do so, enter the Property and complete such maintenance and make such repairs to the 160 Dascomb Road Sewer Connection as it reasonably deems necessary, and 160 Dascomb Road Owner (while preserving its rights to seek contribution from others) shall pay to Andover or Tewksbury, as the case may be, the cost of such repair within fourteen (14) days of demand for payment. If said payment is not made within fourteen (14) days of demand, then either Andover or Tewksbury shall have the right to place a lien on the Property for such cost. Notwithstanding the foregoing, 160 Dascomb Road Owner shall have no obligation under this Agreement to maintain, repair, and/or replace any portion of the 160 Dascomb Road Sewer Connection continuing after the Northern Dascomb Road SMH. **[THIS PROVISION GENERALLY MIRRORS PARAGRAPH 13 OF THE ORIGINAL VICOR SEWER USE AGREEMENT BUT EXPANDS UPON LIEN RIGHTS OF EITHER TOWN IF THEY NEED TO SPEND \$\$ TO REPAIR UPON FAILURE OF OWNER TO DO SO.]**

14. 160 Dascomb Road Owner agrees that each owner of the Property shall be liable to Andover and Tewksbury for any and all losses or costs incurred by Andover or Tewksbury due to damage to the Tewksbury Sewer System caused by any failure of 160 Dascomb Road Owner to properly maintain the 160 Dascomb Road Sewer Connection or failure to abide by any applicable Sewer Use Rules and Regulations as they relate thereto and said 160 Dascomb Road Owner's discharge of sewerage or wastewater into sewer systems of Lowell and/or the Tewksbury Sewer System, including without limitation any failure to properly comply with any requirements of the grease trap regulations of either Tewksbury or Andover; provided, however, the 160 Dascomb Road Owner shall retain (and reserve) all rights to pursue any claims as against third parties related to or arising from the discharge into the Tewksbury Sewer System or Lowell Sanitary Sewer System other than by and through the 160 Dascomb Road Sewer Connection. **[THIS IS NEWLY ADDED PROVISION THAT PROTECTS BOTH TOWNS WITH RESPECT TO ONGOING MAINTENANCE OBLIGATIONS OR FAILURE TO ABIDE BY REGS.]**
15. Nothing in this Agreement is intended to grant or cause any right or permission for any other users located in Andover to connect to or use 160 Dascomb Road Sewer Connection or the Tewksbury Sewer System. The 160 Dascomb Road Owner agrees and acknowledges that it shall not allow any other user in Andover to connect to the 160 Dascomb Road Sewer Connection absent the written approval of both Tewksbury and Andover. **[INTENDED TO MIRROR PARAGRAPH 14 OF ORIGINAL VICOR SEWER USE AGREEMENT]**
16. The undersigned parties confirm and agree that (i) based upon the terms and conditions of all the operative governing agreements, including, without limitation,

the 1988 Brockway Smith/Sebago Agreement, the 1989 Brockway Smith/Sebago Agreement, Original Vicor Sewer Use Agreement, and the Brockway Smith/Sebago Sewer Rights Assignment Agreement, that Tewksbury shall have no obligations with respect to any portion of the sewer infrastructure located in Andover included as part of the 160 Dascomb Road Sewer Connection, and (ii) to the extent any portion of the sewer infrastructure serving any of the properties that are subject to such agreements is located in Andover but may not be otherwise included as part of the 160 Dascomb Road Sewer Sewer Connection, Tewksbury shall have no obligation with respect thereto. **[NEW LANGUAGE ADDED BY TEWKSBURY; THEY JUST WANTED CONFIRMATION NO PORTION OF THE SYSTEM LOCATED IN ANDOVER IS THEIR RESPONSIBILITY (SEE ABOVE CONFIRMATION RESPONSIBLITY OF LAND OWNERS/USERS IN ANDOVER)]**

17. The term of this Agreement shall commence on September 1, 2024 and run concurrently with the term of the Lowell-Tewksbury Sewer Agreement and the IMA (which agreements run concurrently) and thus end on the later to occur of (i) June 30, 2037, or (ii) the expiration date of the Lowell-Tewksbury Sewer Agreement and IMA (if such agreements are subsequently extended past June 30, 2037 following the effective of this Agreement). This Agreement may be renewed or extended in writing only upon proper authorization by the Parties in accordance with applicable laws and regulations. **[TERM REPLACES PARAGRAPH 15 OF ORIGINAL VICOR SEWER USE AGREEMENT WHICH ORIGINALLY RAN 25 YEARS FROM 8/31/98 TO 8/31/2024 AND EXTENDS LATER OF 6/30/2037 OR EXPIRATION OF IMA (CURRENTLY EXPIRES 6/30/2037)]**
18. Notwithstanding anything to the contrary contained in this Agreement, if at any time during the term of this Agreement, Andover shall provide to the 160 Dascomb Road Owner the right and ability to connect to and use any sewage and/or wastewater sanitary system owned and operated by Andover, then the 160 Dascomb Road Owner shall have the unilateral right, to be exercised by the 160 Dascomb Road Owner, in its sole discretion upon not less than two (2) years prior written notice to Andover and Tewksbury, to terminate this Agreement whereupon this Agreement shall no longer be of any further force and effect and the Parties hereto shall no longer have any rights, liabilities or obligations arising under this Agreement except for any liabilities or obligations which expressly survive the termination of this Agreement, if any. If such termination notice issues, the 160 Dascomb Road Owner shall continue to use the 160 Dascomb Road Sewer Connection, as previously, for a minimum of two (2) years and shall not use any sewer and/or water sanitary system owned and operated by Andover until after such minimum two (2) year period has expired. After such minimum period, the 160 Dascomb Road Sewer Connection shall be discontinued and such connection shall be disconnected from the Tewksbury Sewer System. If the 160 Dascomb Road Owner properly exercise this early termination right, it shall fully

comply with all applicable laws and regulations, at its own cost and expense, in terminating the 160 Dascomb Road Sewer Connection. **[THIS IS ENTIRELY NEW PROVISION ADDRESSING SCENARIO IF ANDOVER IN THE FUTURE EXTENDS SEWER TO THE SITE AND AFFORDS OWNER EARLY TERMINATION RIGHT WITH TWO YEAR NOTICE]**

19. This Agreement shall not take effect until it is executed by all signatories listed below, including Lowell, and recorded by 160 Dascomb Road Owner with the Essex North District Registry of Deeds and the Middlesex North Registry of Deeds, respectively, and that the terms and conditions of this Agreement shall bind and inure to the benefit of and be enforceable by the Parties and their respective successors in interest. 160 Dascomb Road Owner shall deliver to Tewksbury and Andover a copy of the recorded Agreement.
20. 160 Dascomb Road Owner authorizes and grants representatives from Tewksbury, Andover and Lowell the right to enter upon the Property upon twenty-four (24) hours' prior advance notice for the sole purposes of inspecting, monitoring and sampling the 160 Dascomb Road Sewer Connection to ensure compliance with the terms and conditions of this Agreement.
21. 160 Dascomb Road Owner shall pay Tewksbury's and Andover's reasonable legal fees and costs for the preparation and/or review of this Agreement. Further, the 160 Dascomb Road Owner shall be responsible for payment of Tewksbury's and Andover's reasonable legal fees and costs for the enforcement of any of the terms or conditions of this Agreement.
22. Each of the Parties covenants and agrees that the approval of this Agreement shall never be used in any forum by the 160 Dascomb Road Owner as a reason for, or basis of, a claim, argument or assertion that this Agreement is binding or a persuasive precedent for Tewksbury or Andover to approve another IMA or an amendment to this Agreement.
23. All Parties reserve the right, either in law or in equity, by suit and complaint in the nature of mandamus, or other proceeding, to enforce or compel performance of any or all covenants or agreements contained in this Agreement.
24. If any term or provision of this Agreement or the application thereof to any person, property or circumstance shall to any extent be held invalid or unenforceable, or if any agency, board, commission, or division of the Commonwealth of Massachusetts or the federal government, or any court of competent jurisdiction determines or declares any provision of this Agreement to be illegal, invalid, or unenforceable then the remainder of this Agreement or the application of such term(s) or provision(s) to persons, properties or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and all remaining terms and provisions

of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

25. This Agreement shall be construed, and enforced, in accordance with the laws of the Commonwealth of Massachusetts, and any suits hereunder shall be filed only in the Superior Court, for Middlesex County.

{END OF AGREEMENT; SIGNATURE PAGES TO FOLLOW}

IN WITNESS WHEREOF, the undersigned have executed this Agreement Under Seal as of the date first written above.

WITNESS:

DASCOMB ROAD:

Dascomb Road Limited Partnership, a Delaware limited partnership

By: Condyne Investment Partners, LLC, its General Partner

Print Name:

By: _____
Name: _____
Title: _____

COMMONWEALTH OF MASSACHUSETTS

County of _____

On this ____ day of _____, 2018, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntary for its stated purpose in his/her capacity as _____ of Condyne Investment Partners, LLC, the General Partner of Dascomb Road Limited Partnership and that the foregoing constitutes the free and voluntary act and deed of Dascomb Road Limited Partnership.

_____, Notary Public
My commission expires: _____

[signatures continue on next page]

WITNESS:

TEWKSBURY:

Town of Tewksbury

Print Name:

By: _____
Name: Richard A. Montuori
Title: Town Manager

Print Name:

By: _____
Name: Jay J. Kelly
Title: Chairman, on behalf of the Board of
Selectmen of the Town of Tewksbury

COMMONWEALTH OF MASSACHUSETTS

County of _____

On this ____ day of _____, 2018, before me, the undersigned notary public, personally appeared Richard A. Montuori and Jay J. Kelly, proved to me through satisfactory evidence of identification, which were _____, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntary for its stated purpose in their respective capacities as Town Manager and Chairman of the Board of Selectmen for the Town of Tewksbury, respectively, and that the foregoing constitutes the free and voluntary act and deed of the Town of Tewksbury.

_____, Notary Public
My commission expires: _____

[signatures continue on next page]

WITNESS:

Print Name:

Print Name:

ANDOVER:

Town of Andover:

By: _____
Name: _____
Title: Town Manager

By: _____
Name: _____
Title: Chairman, on behalf of the Board of
Selectmen of the Town of Andover

COMMONWEALTH OF MASSACHUSETTS

County of _____

On this ____ day of _____, 2018, before me, the undersigned notary public,
personally appeared _____ and _____, proved
to me through satisfactory evidence of identification, which were _____,
to be the persons whose names are signed on the preceding or attached document, and
acknowledged to me that they signed it voluntary for its stated purpose in their respective
capacities as Town Manager and Chairman of the Board of Selectmen for the Town of Andover
and that the foregoing constitutes the free and voluntary act and deed of the Town of Andover.

_____, Notary Public
My commission expires: _____

By executing below, the City of Lowell consents to this Agreement.

WITNESS:

CITY OF LOWELL:

Print Name:

By: _____
Name: _____
Title: _____

COMMONWEALTH OF MASSACHUSETTS

County of _____

On this ____ day of _____, 2018, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntary for its stated purpose in his capacity as _____ of the City of Lowell and that the foregoing constitutes the free and voluntary act and deed of the City of Lowell.

_____, Notary Public
My commission expires: _____

Exhibit “A” – Site Plan

Exhibit "B"
SMH Plan

DOCUMENT NO 68717 ✓

Recd 27, 1998
Finnish North Registry District

Received for Registration

1 O'CLOCK 46 M P M

NOTED ON CERTIFICATE NO. 28628

IN REGISTRATION BOOK 97 PAGE 319

AGREEMENT

This AGREEMENT is entered into this 31st day of August, 1998, by and between Vicor Corporation of Frontage Road, Andover, Massachusetts ("Vicor"), the Town of Tewksbury, Massachusetts ("Tewksbury") and the Town of Andover, Massachusetts ("Andover"). Tewksbury and Andover are all municipal corporations located in the Commonwealth of Massachusetts. Vicor, Tewksbury and Andover shall be collectively referred to as (the "Parties").

RECITALS

WHEREAS, The City of Lowell ("Lowell") owns and operates a Wastewater Treatment System;

WHEREAS, Vicor is the owner of property located on Frontage Road in Andover, Massachusetts and is also the owner by assignment of certain rights, titles, interests and licenses from Tewksbury to extend, connect and use Tewksbury's Sanitary Sewer System for properties in Andover;

WHEREAS, Tewksbury has issued to Vicor a Sewer Extension and Connection Permit for a connection of approximately 6,000 gallons per day, which usage shall not contain any industrial waste as such is defined by 314 C.M.R. 7.02 as amended;

WHEREAS, Tewksbury's Sanitary Sewer System is connected to Lowell's Wastewater Treatment System;

WHEREAS, Lowell has implemented a Pretreatment Program to control discharges from all industrial users of its Wastewater Treatment System pursuant to 40 CFR Part 403;

WHEREAS, Tewksbury has adopted Lowell's Industrial Sewer Use Rules and Regulations which subject Vicor and other users who are located in Andover and who contribute wastewater to Lowell's treatment system to the necessary pretreatment controls.

WHEREAS, Andover is in the process of adopting or has adopted Industrial Sewer Use Rules and Regulations which subject Vicor and other users who are located in Andover and who contribute wastewater to Lowell's treatment system to the necessary pretreatment controls;

WHEREAS, Tewksbury and Andover (approved by Lowell) have entered into an Agreement dated August 31, 1998 which allows users located in Andover to extend, connect and use Tewksbury's sewer system.

WHEREAS, the Parties wish and desire to enter into an Agreement which allows Vicor to extend and connect to the Wastewater Treatment System and which provides for the enforcement of the Rules and Regulations for Users who are located in Andover who contribute to Lowell's treatment system.

NOW, THEREFORE, the parties agree as follows:

1. Vicor shall be allowed, at its sole cost and expense, to extend, connect to and use Tewksbury's Sanitary Sewer System for its intended use(s) for the property located on Frontage Road known as Lots 30A, 30B, and a portion of 30T on Assessors Map 179 of Andover, Massachusetts in accordance with the application attached hereto as Exhibit A and the permits issued or to be issued for the proposed connection. The sewer flow for Vicor shall not contain industrial waste as such is defined by 314 C.M.R. 7.02, and the use as set forth on said application is for 6000.30 gpd sewer flow. For Vicor's title See Transfer Certificate No. 12678 recorded with the Essex North District Registry of Deeds, Land Registration Dept., at Book 97 Page 317.
2. Vicor agrees to transfer and/or assign to Smith & Nephew, Inc. f/k/a Smith & Nephew Endoscopy, Inc. ("Smith & Nephew") the rights, titles, interests and licenses to extend, connect and use Tewksbury's Sanitary Sewer System for its property in Andover for up the 5,000 gallon per day sewer usage in accordance with the Agreement for Partial Assignment between Vicor and Smith & Nephew.
3. As the result of the assignment and/or transfer of rights to Smith & Nephew and the approved daily gallon usage hereunder, Vicor has additional gallon per day sewer usage capacity remaining in the amount of 8,999.70 gpd as the result of the assignment from Jeffrey D. Sheehy and Augustine P. Sheehy, individually and as trustees of the Osgood Street Trust and Frontage Road Trust. This additional remaining sewer usage capacity is not the subject of this agreement. Attached hereto as Exhibit "A" and incorporated herein by reference is a copy of Vicor's application.
4. Vicor agrees that it will comply with the applicable Sewer Use Rules and Regulations promulgated, adopted and implemented by Tewksbury, Andover and Lowell as the same may be revised or amended by said municipalities.
5. Vicor acknowledges that Lowell is authorized to implement and enforce any applicable Sewer Use Rules and Regulations. Vicor acknowledges and recognizes the rights and obligations of the municipalities as set forth in a certain Agreement dated August 31, 1998 by and between Tewksbury and Andover (and approved by Lowell). The terms of said Agreement, copies of which are attached hereto as Exhibit "B" is hereby incorporated herein by reference.
6. Vicor agrees to comply with the requirements, if any, imposed upon it under the Agreement between Tewksbury and Andover (approved by Lowell) dated August 31, 1998 (hereinafter "the Agreement").

7. Vicor agrees to indemnify, defend and hold harmless Andover and Tewksbury, their agents, employees, attorneys, officers and directors from and against any and all liabilities, claims, penalties, fines, forfeitures, suits, judgments, administrative proceedings, actions, debts, cost and expenses incidental thereto (including cost of defense, settlement and reasonable attorneys' fees), which may be brought against Andover and Tewksbury or which the municipalities may incur, become responsible for, or pay out as the result of (i) death or bodily injury to any person, (ii) destruction or damage to any property or (iii) any violation or alleged violation of any governmental law or regulation, all caused in whole or in part by or resulting from the acts of Vicor, its officers, employees, contractors or agents in the performance of the work to extend and connect the sewer to its project(s) or arising out of or related to the performance of this Agreement. Vicor shall be entitled to participate in any action, suit or proceeding brought against Andover, Tewksbury and/or Lowell under this paragraph, and to the extent they may wish, to assume the defense thereof. Vicor shall not be responsible for any settlement or disposition of such suit or proceeding effected without its prior written consent. Vicor also agrees to indemnify, defend and hold harmless Andover and/or Tewksbury, their agents, employees, attorneys and officers for all liabilities, awards, judgments, costs and expenses, including attorneys fees for suits, actions, demands, claims or proceedings (i) brought against Andover and/or Tewksbury as the result of Vicor's alleged failure to comply with any applicable Sewer Use Rules and Regulations as promulgated, adopted or implemented by Tewksbury, Andover and Lowell, (ii) brought against Vicor by Andover as the result of Vicor's alleged failure to comply with any applicable Sewer Use Rules and Regulations, or (iii) brought against Andover and/or Tewksbury as the result of Vicor's alleged failure to comply with the terms of said Agreement attached hereto as Exhibits "B".
8. Vicor states that it is the owner by assignment of certain rights, titles, and licenses to extend, connect, and use Tewksbury's sanitary sewer system. Vicor agrees that it will not grant, convey, assign, or otherwise transfer to any individual, owner, trust, corporation, or other entity any rights, titles, and interest to extend, connect or use its sewer extension for any gallon per day usage capacity in excess of the capacity which has been or may be assigned to it. Vicor further agrees to indemnify, defend and hold Andover and Tewksbury harmless of and from any claim or action brought by any individual, owner, trust, corporation or other entity seeking to extend, connect, or use Vicor's sewer extension who or which has received an assignment from Vicor for gallon per day usage capacity in excess of the total usage capacity which has been or may be assigned to Vicor.
9. With the execution hereof Vicor represents that it has obtained all local, state and federal approvals or permits necessary for the extension, connection and use of the Sanitary Sewer System as provided herein.
10. Vicor hereby acknowledges and confirms that it has assumed and agreed to perform all of the obligations of Augustine P. Sheehy and Jeffrey D. Sheehy, d/b/a Dundee Park

Properties, Augustine P. Sheehy, Trustee of the Frontage Road Trust and Jeffrey D. Sheehy, Trustee of the Osgood Street Trust ("Sheehys") for its project(s) under a certain Agreement/License dated July of 1988 by and between the Sheehys and the Town of Tewksbury. Said Agreement/License dated July, 1988 pertains to the extension, connection and usage of Tewksbury's Sanitary Sewer System, and together with the copy of the Assignment to Vicor, is attached hereto as Exhibit "C".

11. Andover and Tewksbury hereby acknowledge the terms of the July, 1988 Agreement/license by and between Augustine P. Sheehy and Jeffrey D. Sheehy, individually, d/b/a Dundee Park Properties, and as Trustees of the Frontage Road Trust and the Osgood Street Trust, and the Town of Tewksbury pertaining to the extension, connections and usage of the Tewksbury Sanitary Sewer System and hereby ratify their authorization and permission for Vicor to extend, connect and use the said Sanitary Sewer System.
12. Upon execution of this Agreement and thereafter until July 1, 1999, all fees, costs and charges relating to the use by Vicor of Tewksbury's Sanitary Sewer System shall be billed and collected by Tewksbury. After July 1, 1999, Tewksbury shall bill Andover at the rate charged by Tewksbury for said fees, costs and charges and Andover shall thereupon bill Vicor at that rate charged by Tewksbury. Andover may include a service fee or administrative charge for participating in such billing. Andover's obligations to pay Tewksbury for said bills and charges are subject to approval and appropriation by Andover's Town Meeting. Andover shall proceed in good faith and use reasonable efforts to submit, support, and receive approval at its annual meeting to allow Andover to conduct the requirements of this paragraph, including the billing of Andover Users for the fees, costs, and charges relating to the use of Tewksbury's sanitary sewer system. Vicor agrees that it shall, and must comply with any other billing arrangement which Tewksbury and Andover may enter into after the execution of this Agreement. Vicor acknowledges the rights of Andover and Tewksbury to bill, collect and lien for the fees, costs and charges relating to the use by Vicor of said Sanitary Sewer System.

Upon execution of this Agreement, Vicor agrees to transfer to Andover the sum of \$5,000, said amount to be held by Andover in a segregated account. Said sum and any interest and accumulation thereon may be used by Andover to pay the fees, costs and charges relating to the use by Vicor of Tewksbury's Sanitary Sewer System, if said fees, costs and charges have not been paid within 60 days of billing. Andover agrees to retain said sums in a segregated interest bearing account.

13. Vicor, Tewksbury and Andover hereby state and ratify that the sewer extension and connection shall be privately owned and maintained by Vicor. Tewksbury and Andover agree that the sewer extension to be constructed by Vicor shall remain privately owned and neither Andover nor Tewksbury shall approve of any extension, connection, or use of

Vicor's extension or connection or any of its component parts without the express written prior approval of Vicor. The sole responsibility to operate, maintain and repair said sewer extension and connection shall be that of Vicor. The Town of Andover shall have no responsibility for the operation, maintenance and repair of said sewer connection and extension. In the event Vicor fails, in the sole opinion of the Town of Andover, to maintain and repair said sewer connection and extension so as to accomplish its purpose, or if said sewer connection and extension is determined to be a threat to public health by the Director of the Andover Board of Health, then the Town of Andover may, in its sole discretion and without obligation to do so, enter and do such maintenance and make such repair to the sewer connection and extension as it deems necessary, and Vicor and its successors and assigns shall pay to the Town of Andover the cost of such repair within 14 days of demand for payment. If said payment is not made within 14 days of demand, then Andover shall have the right to lien Vicor's property for said cost.


14. Nothing in this Agreement is intended to grant or cause any right or permission for any other users in Andover to connect to or use the Tewksbury Sanitary Sewage System. Vicor agrees and acknowledges that it shall not allow any other user in Andover to connect to Vicor's sewer extension and connection without the approval by said sewer of Tewksbury and Andover.
15. The term of this Agreement shall run concurrently with the Tewksbury-Lowell Intermunicipal Agreement but the total term shall not exceed twenty-five (25) years from the date hereof and may be renewed or extended upon proper authorization by the parties hereto in accordance with applicable law.
16. This Agreement shall be recorded in the Essex North District Registry of Deed and shall bind and inure to the benefit of and be enforceable by the parties and their respective heirs, successors and assigns.
17. Vicor authorizes and grants representatives from Tewksbury, Andover and the City of Lowell the right to enter Vicor's premises with twenty-four (24) hour advance notice for purposes of inspecting, monitoring and sampling to determine compliance with this Agreement.
18. Andover and Tewksbury acknowledge that as of the date of this Agreement, Vicor is not responsible for any attorney's fees or consulting charges for its proposed extension, connection, or use of Tewksbury's sanitary sewage system or related to the preparation, review and approval of this Agreement or the Agreement between Tewksbury and Andover (approved) by Lowell dated August 31, 1998. Any future costs are provided by the Intermunicipal Agreement dated August 31, 1998.
19. All parties reserve the right, either in law or equity, by suit, and complaint in the nature of

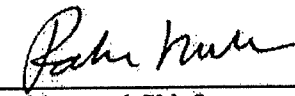
mandamus, or other proceeding, to enforce or compel performance of any or all covenants herein.

20. If any term or provision of this Agreement or the application thereof to any person, property or circumstance shall to any extent be invalid or unenforceable, or if any agency, board, commission, or division of the state and federal government, or any court determines or declares any provision of this Agreement to be illegal, invalid, or unenforceable then the remainder of this Agreement or the application of such term or provision to persons, properties and circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

In witness whereof, the parties hereto have executed this Agreement by their duly authorized representative(s) on this 31 day of August, 1998.

Vicor Corporation


Witness

By: 
its President and Chief
Executive Officer,
Patrizio Vinciarelli

TOWN OF ANDOVER

Theresa
Witness

By: Reginald Stapczynski
Town Manager,
Reginald Stapczynski

Harold
Witness

By: William T. Rawns
Chairman, on behalf of the
Board of Selectmen of the
Town of Andover

Edmund M. Hudson
Witness

TOWN OF TEWKSBURY

By: David G. Cressman
its Town Manager,
David G. Cressman

William M. Chambers
Witness

By: Joan M. Dunlevy
Chairman, on behalf of the
Board of Selectmen of the
Town of Tewksbury

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

August 31, 1998

Then personally appeared before me the above-named Patrizio Vinciarelli, the President and Chief Executive Officer of Vicor Corporation, and acknowledged the foregoing to be the free act and deed of said corporation, before me

Approved as to Form Only

Charles J. Zaccoulis
Charles J. Zaccoulis,
Tewksbury Town Counsel

Date: 9-3-98

John F. Gallant
John F. Gallant Notary Public
My Commission Expires: 12/1/98

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

August 31, 1998

Then personally appeared before me the above-named Reginald Stapczynski, the Town Manager of the Town of Andover and William P. Pappas Chairman of the Board of Selectman, and acknowledged the foregoing to be the free act and deed of Andover, before me

H. J. J. J.
Notary Public
My Commission Expires: April 2, 2000

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

, 1998

Then personally appeared before me the above-named David G. Cressman, the Town Manager of the Town of Tewksbury and ~~Chairman of the Board of Selectman~~, and acknowledged the foregoing to be the free act and deed of Tewksbury, before me

Helen M. Chambers
Notary Public
My Commission Expires: 3/31/00

VICOR\JGAB\MUNAGR

314 CMR: Division of Water Pollution Control
One Winter Street
Boston, MA 02108

7.20:

APPLICATION FOR PERMIT
FOR
SEWER SYSTEM EXTENSION OR CONNECTION

PERMIT NO: _____

TOWN: _____
For issuing office
use only:

INSTRUCTIONS

The application should be signed by the appropriate municipal official, and submitted in triplicate, with the original and one copy to the Division's Boston Office and one copy to the appropriate regional office. The signature of the design engineer or other agent will be accepted only if accompanied by a letter of authorization.

If connection is to be made to the MWRA sewerage system, indicate "MWRA" in item 11.

If the project includes sewers, pumping stations, force mains, or syphons, construction plans must be submitted with the application.

If additional space is required to properly answer any questions, please attach additional sheets and refer to the attachments in the space provided.

- (1) Name and Address of Applicant: Vicor Corporation
23 Frontage Rd.
Andover, MA 01810
Telephone 508-470-2900
- (2) Name of Sewer System Owner: Town of Andover & Tewksbury
(Municipality or Sewer District)
Department of Public Works
(Department)
- (3) Type of Project: Sewer Extension and Connection
(Sewer Extension or Sewer Connection)
- (4) Number of Residences to be served: N/A
- (5) Number of Bedrooms: N/A

314 CMR: DIVISION OF WATER POLLUTION CONTROL

(6) Other establishments to be served:

(a)	N/A			
	Name	Address	Type of Establishment	Design Flow
(b)				
(c)				
(d)				

(7) Design Flow-Gallons Per Day:

Sewage	6,000 gpd
Industrial Wastes	None
Total	6,000 gpd

(8) Location, Length, Size and Capacity of Sewers to be Connected to the existing system: (Attach sketch)

(a)	Dascomb Rd. & Frontage Rd.	2100'	8" dia.	1.2 cfs
	Name of Street	Length of Sewer	Size of Sewer	Flow Full Capacity
(b)				
(c)				
(d)				

(9) Location, Size and Capacity of Pumping Stations to be Connected to the existing system:

(a)	None				
	Pump Station	Location	Number of Pumps	Pump Size	Pump Capacity
(b)	N/A				

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- (10) General Description of Sewers and Pump Stations within the existing sewer system which will transport the flow from the proposed sewer extension of connection to the receiving Wastewater Treatment Facility:

The 8" sewer connection will tie into an existing sewer manhole off
Dascomb Road. The 8" sewer flows to the Town of Tewksbury sewer
system which flows to the Lowell treatment facility.

- (11) Receiving Wastewater Treatment Facility:

Name: Lowell Wastewater Regional Utility, Lowell, MA

Average Daily Flow: 28 Million Gallons Per Day

Design Flow: 32 Million Gallons Per Day

- (12) Does the discharge contain any industrial waste?

Yes _____ No x

If yes, list any pollutants which you know or have reason to believe are discharged or may be discharged. For every pollutant you list, please indicate its approximate concentration in the discharge and any analytical data in your possession which will support your statement. Additional wastewater analysis may be required as part of this application.

- (13) Does the discharge contain any industrial waste containing substances or materials which could harm the sewers, wastewater treatment process, or equipment; have an adverse effect on the receiving water; or could otherwise endanger life, limb, public property, or constitute a nuisance?

Yes _____ No x

- (14) Do the wastewaters receive any pretreatment prior to discharge?

Yes _____ No x

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- (15) List, in descending order of significance, the four (4) digit standard industrial classification (SIC) Codes which best describe the facility producing the discharge in terms of the principal products or services provided. Also, specify each classification in words.

SIC CODE

SPECIFY

A. N/A Office Bldg.
B.
C.
D.

- (16) Is the Proposed Discharge Consistent with Existing Sewer Use Regulations:

YES: x NO: _____

- (17) Is there a site of historic or archeological significance, as defined in regulations of the Massachusetts Historical Commission, 950 CMR 71.00, which is in the area affected by the proposed extension or connection?

YES: _____ NO: x installation is within street pavement area.

- (18) Does this project require a filing under 301 CMR 11.00, the Massachusetts Environmental Policy Act?

YES: _____ NO: x

If yes, Has a Filing been Made?

YES: _____ NO: _____

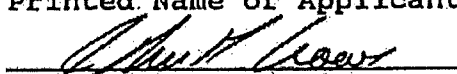
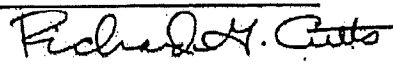
- (19) Name and Address of Massachusetts Registered Professional Engineer Designing the Proposed System:

Richard G. Cutts
Name John G. Crowe Associates, Inc.
385 Concord Ave.
Address _____
Belmont, MA 02178
City _____ State _____ Zip _____
(617) 484-7109 29034
Telephone _____ Mass. P.E. Number _____

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(20) Certification

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment of knowing violations." (I will be responsible for publication of public notice of the applicable permit proceedings identified under 314 CMR 2.06(1) (a) through (d).)

John G. Crowe	President
Printed Name of Applicant	Title
	4/14/97
Signature of Applicant	Date Signed
Richard G. Cutts, Registered Professional Civil Engineer, 617-484-7109	
Name of Preparer	Title Phone No.
	

21) General Conditions

- (a) All discharge authorized herein shall be consistent with the terms and conditions of this permit and the approved plans and specifications. The discharge of any wastewater at a level in excess of that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit. Such a violation may result in the imposition of civil and/or criminal penalties as provided for in Section 42 of the State Act.
- (b) After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:
1. Violation of any terms or conditions of the permit;
 2. Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; and
 3. A change in conditions or the existence of a condition which requires either a temporary or permanent reduction or elimination of the authorized discharge.

314 CMR: DIVISION OF WATER POLLUTION CONTROL

- (c) In the event of any change in control or ownership of facilities from which the authorized discharges originate, the permittee shall notify the succeeding owner or operator of the existence of this permit by letter, a copy of which shall be forwarded to the Director. Succeeding owners or operators shall be bound by all the conditions of this permit, unless and until a new or modified permit is obtained.
- (d) The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges; nor does it authorize or relieve the permittee of any liability for any injury to private property or any invasion of personal rights; nor any infringement of Federal, State, or local laws or regulations; nor does it waive the necessity of obtaining any local assent required by law for the discharge authorized herein.
- (e) The provisions of this permit are severable, and the invalidity of any condition or subdivision thereof shall not make void any other condition or subdivision thereof.
- (f) All information and data provided by an applicant or a permittee identifying the nature and frequency of a discharge shall be available to the public without restriction. All other information (other than effluent data) which may be submitted by an applicant in connection with a permit application shall also be available to the public unless the applicant or permittee is able to demonstrate that the disclosure of such information or particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets in accordance with the provisions of M.G.L. c.21, s.27(7). Where the applicant or permittee is able to so demonstrate, the Director shall treat the information or the particular part (other than effluent data) as confidential and not release it to any unauthorized person. Such information may be divulged to other officers, employees, or authorized representatives of the Commonwealth or the United States Government concerned with the protection of public water or water supplies.
- (g) Transfer of Permits
 - 1. Any sewer system extension or connection permit authorizing an industrial discharge to a sewer system is only valid for the person to whom it is issued, unless transferred pursuant to 314 CMR 7.13. Such permits shall be automatically transferred to a new permittee if:

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- A. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date; and
- B. The notice includes a written agreement between the existing and new permittee containing a specific date for transfer of permit responsibility, coverage, and liability between them.
2. Any sewer system extension or connection permit not subject to 314 CMR 7.13(1) automatically transfers to a subsequent owner, operator, or occupant.
- (22) Special Conditions

APPROVAL RECOMMENDED:

David S. [Signature] *Tom Hamer 508-842-4300*
Signature and Title of Appropriate Municipal Official (Phone)

(FOR ISSUING OFFICE USE ONLY)

DATE ISSUED

DIRECTOR
DIVISION OF WATER POLLUTION
CONTROL

EFFECTIVE DATE OF PERMIT

TEWKSBURY - ANDOVER AGREEMENT

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AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of August, 1998 by and between TOWN OF TEWKSBURY, an incorporated township within the County of Middlesex and the Commonwealth of Massachusetts, hereinafter referred to as TEWKSBURY, and TOWN OF ANDOVER, an incorporated township within the County of Essex and the Commonwealth of Massachusetts, hereinafter referred to as ANDOVER.

WITNESSETH:

WHEREAS, TEWKSBURY is authorized by law to enter into contracts and agreement with ANDOVER for the purpose of aiding in the abatement of water pollution; and

WHEREAS, TEWKSBURY is willing to enter into an Agreement with ANDOVER whereby TEWKSBURY would receive and transport wastes of certain ANDOVER USERS through TEWKSBURY'S Sewerage System to CITY OF LOWELL Sewerage System; and whereby CITY OF LOWELL would receive, treat and dispose of the waste; and

WHEREAS, TEWKSBURY has entered into an agreement with CITY OF LOWELL whereby LOWELL would receive, treat and dispose of TEWKSBURY'S wastes through CITY OF LOWELL'S Sewerage System; and

WHEREAS, ANDOVER and LOWELL have entered into an Agreement dated, March 24, 1995 which provides for the adoption and implementation of Industrial Sewer Use Rules and Regulations and for the connection, extension and use of TEWKSBURY'S Sanitary Sewer System for certain ANDOVER USERS.

WHEREAS, ANDOVER seeks to allow other ANDOVER USERS to connect, extend and use TEWKSBURY'S Sanitary Sewer System.

WHEREAS, TEWKSBURY, AND ANDOVER both intend to comply with the applicable federal laws, rules and regulations, including but not limited to user charge, and sewer use regulation requirements; and

WHEREAS, the provision for wastewater treatment and disposal service is necessary to protect the public health, safety, and welfare; and

WHEREAS, TEWKSBURY and ANDOVER have determined to enter into this Agreement for aforesaid reasons.

NOW THEREFORE, in consideration of these premises and mutual benefits to be derived by the parties hereto, it is agreed as follows:

ARTICLE I

DEFINITIONS

1.1 For the purpose of this Agreement, the following terms are defined. Any ambiguities, conflicts, interpretations or terms not so defined shall be resolved by reference to the most stringent definition which may be applicable as may be adopted or promulgated by the Environmental Protection Agency (EPA), the Department of Environmental Protection (DEP), or the local Rules and Regulations of Lowell, Tewksbury and/or Andover, including the definitions contained in 314 CMR 9.02 et seq. and 40 CFR 403.

1.1.1 "ANDOVER" shall mean the Town of Andover, a municipal corporation of the Commonwealth of Massachusetts.

1.1.2 "ANDOVER USERS" shall mean those users located in ANDOVER who have entered into an agreement with ANDOVER and TEWKSBURY and received all other necessary approvals, licenses and permits to extend, connect and use

TEWKSBURY'S sewage system. The term ANDOVER USER shall mean and refer to both Industrial users and Sanitary Users.

- 1.1.3 "Average Daily Flow" shall mean the total annual flow as measured in gallons at Metering Stations plus agreed-to non-measured direct discharges to TEWKSBURY'S sewerage system divided by the number of days in the year.
- 1.1.4 "Biochemical Oxygen Demand" (BOD or BOD₅) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade (68 degrees Fahrenheit) expressed in milligrams per liter (mg/l) by weight.
- 1.1.5 "Chlorine Demand" shall mean the amount of chlorine expressed in mg/l required to be added to water, sewage or other liquid to achieve a combined chlorine residual after fifteen (15) minutes contact of one (1) mg/l.
- 1.1.6 "Combined Sewer" shall mean a sewer receiving both surface runoff and sanitary sewage and/or industrial wastes.
- 1.1.7 "Executive Director" shall mean the Executive Director of the Lowell Regional Wastewater Utility of Lowell, or his duly authorized representative.
- 1.1.8 "Indirect discharge" shall mean the discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or (c) of the Act (33 USC 1317) into the POTW: (including holding tank waste discharged into the system).
- 1.1.9 "Industrial User Permit" shall mean the permit required to be obtained from the LOWELL by industrial users to discharge to the POTW.
- 1.1.10 "Industrial User" shall mean a source of indirect discharge.

- 1.1.11 "Industrial wastewater" shall mean all watercarried wastes and wastewater, excluding domestic wastewater and unpolluted water. Includes all wastewater from any producing, manufacturing, processing, testing, institutional, commercial, agricultural, or other operations where the wastewater discharged includes nondomestic wastes.
- 1.1.12 "Interference" shall mean a discharge by an industrial user which alone or in conjunction with discharges by other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal and which is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or the prevention of sewage sludge use or disposal by the POTW in accordance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substance Control Act, and the Marine Protection Research and Sanctuaries Act.
- 1.1.13 "Local limits" shall mean specific effluent pollutant concentrations developed by the POTW for industrial user(s) in order to prevent any interference and/or pass through of the POTW as mandated by Section 40 CFR, Section 403.5(c).

- 1.1.14 "LOWELL" shall mean the City of Lowell, a municipal corporation of the Commonwealth of Massachusetts.
- 1.1.15 "Maximum Daily Flow" shall mean the maximum gallons recorded at Metering Stations plus agreed-to allowances for direct discharges to TEWKSBURY sewerage system during a 24-hour period during any calendar year.
- 1.1.16 "Outside User Rate" shall mean the rate adopted by a municipality to charge users located outside the boundaries of the municipality to discharge sewage into that municipality sewer system. The Outsider User Rate shall be charged or set based upon a per 1000 gallon of actual usage. The Outside User Rate shall be adopted by the municipality and be part of the municipality's sewer use regulations.
- 1.1.17 "Pass through" shall mean the discharge of pollutants through the POTW into the waters of the United States in quantities or concentration, which alone or in conjunction with discharges from other sources is cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
- 1.1.18 "Peak Rate of Flow" shall mean the maximum rate of flow recorded at Metering Stations or measured in the direct discharges to TEWKSBURY'S sewerage system during any calendar year.
- 1.1.19 "pH" shall mean the measure of the Alkalinity or acidity of a substance, expressed in standard units.
- 1.1.20 "Pretreatment or treatment" shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants, or the

alteration of the nature of pollutant properties in wastewater to a less harmless state prior to or in lieu of discharging or otherwise introducing such pollutants to the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes other than the above means, except as prohibited by 40 CFR Section 403.6(d).

- 1.1.21 "Publicly owned treatment works or POTW" shall mean the city-owned treatment works, as defined in Section 212 of the Act (33 USC 1292). This definition includes any sewers which convey wastewater to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. For the purpose of this permit, "POTW" shall also include any sewers which convey wastewater to the POTW from persons outside the city who are, by agreement with the city, users of the city's POTW.
- 1.1.22 "Pretreatment requirements" shall mean any substantive or procedural requirements related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.
- 1.1.23 "Replacement Costs" shall mean expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the sewage works to maintain the capacity and performance for which said works were designed and constructed.
- 1.1.24 "Sanitary Sewage" shall mean sewage discharging from sanitary conveniences such as toilets, washrooms, urinals, sinks, showers, drinking fountains, small laundries, kitchens, cafeterias and floor drains essentially free of industrial wastes or toxic

materials.

1.1.25 "Sanitary User" shall mean a user who discharges sanitary sewage.

1.1.26 "Service Life" shall mean the period of time during which the sewage works or component of a waste treatment management program will be capable of performing a function.

1.1.27 "Sewage System or Sewage Works" shall mean all facilities for collecting, conveying, pumping, treating and disposing of sanitary sewage and/or industrial wastes.

1.1.28 "Significant Industrial User or Significant User" shall mean the following:

Except as provided in paragraph (b) of this section, the term Significant Industrial User means:

- (a) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and
- (b) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling or boiling blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f) (6)).

- 1.1.29 "Suspended Solids" (SS) shall mean solids that either float on the surface of, or are in suspension in, water, sewage, wastewater or other liquids and which are removable by laboratory filtering.
- 1.1.30 "TEWKSBURY" shall mean the Town of Tewksbury, is a municipal corporation of the Commonwealth of Massachusetts.
- 1.1.31 "Total Cost" shall mean construction costs, engineering and legal fees, amortization costs and land costs.
- 1.1.32 "Toxic Pollutant" shall mean one of the pollutants, or combination of those pollutants which are listed under provisions of Section 307 of the Act.
- 1.1.33 "Toxic substances" shall mean any substance or mixture, whether gaseous, liquid or solid, which, when discharged into the sewer system, may tend to interfere with any wastewater treatment process, constitute a hazard to human beings or animals, inhibit aquatic life, or create a hazard to recreation in the receiving waters of the effluent from the POTW.
- 1.1.34 "Upset" shall mean an incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- 1.1.35 "User Charges" shall mean charges levied for use of sewage rights to discharge into the sewer system.

1.1.36 "Wastes" shall mean substances in liquid, solid or gaseous form that can be carried in water.

1.1.37 "Wastewater" shall mean the spent water of a community which may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

ARTICLE II

GENERAL PROVISIONS

2.1 ANDOVER understands and agrees to the following obligations, limitations, and commitments, made in return for TEWKSBURY'S agreement to permit connection by ANDOVER USERS to sewage works.

2.1.1 "Limitations of Rights." Nothing in this Agreement shall be construed as a grant by TEWKSBURY of any exclusive right or privilege. Solely with respect to ANDOVER USERS, ANDOVER agrees to adopt the sewer rules and regulations to be adopted by TEWKSBURY as amended, including the requirements of the LOWELL Pretreatment program.

2.1.2 "Sewer Use Regulation" TEWKSBURY and ANDOVER agree to adopt and enforce regulations that embodied rules related to use of TEWKSBURY'S sewage works for ANDOVER USERS. Said rules shall include the CITY OF LOWELL'S Sewer Use Ordinance, Lowell City Code Chapter 18 and any amendments thereto

that may be required to be acceptable to federal and state authorities; to TEWKSBURY and to LOWELL. As a minimum, such rules shall prescribe conditions and requirements for use by ANDOVER USERS of sewage works so as to comply with the limitations set forth in "TOWN OF TEWKSBURY Sewer Use Regulations", as shall be adopted and amended.

2.1.3 Ninety days prior to the adoption of any new or revised sewer use regulations or ordinance or by-law with which ANDOVER USERS will be expected to comply, LOWELL and TEWKSBURY shall provide copies of said regulation, ordinance or by-law to ANDOVER for review and comment.

2.1.4 Failure of Andover to adopt changes to any rules or regulation as required by the DEP, EPA, Lowell, or Tewksbury (if approved by LOWELL) will not relieve the ANDOVER USERS from compliance with the modified rule or regulation.

ARTICLE III

OBLIGATIONS AND RESPONSIBILITIES

3.1 TEWKSBURY shall receive and transport ANDOVER USERS' wastes in accordance with all existing or future laws, regulations, existing or future TEWKSBURY Sewer Regulations, water quality standards, and orders and decrees of any governmental authority having jurisdiction over the transmission of said wastes; provided, however, that the treatment of ANDOVER USERS wastes by LOWELL shall be of such a type and degrees as may be necessary to provide for the application of Best Practicable Waste Treatment Technology. LOWELL shall ensure that all ANDOVER USERS shall conform to all appropriate industrial wastewater pretreatment rules and regulations as established by LOWELL and

appropriate state and federal regulatory agencies. ANDOVER agrees to support and cooperate with LOWELL in the enforcement with respect to any ANDOVER USER who fails, refuses or neglects to comply with the industrial wastewater pretreatment rules and regulations after demand or request is made by LOWELL.

3.2 SECTION I GENERAL REGULATIONS

A. Uncontaminated waters:

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, or noncontact cooling water to any sanitary sewer without expressed permission by the Executive Director of the Lowell Wastewater Utility.

B. Prohibited Discharges.

1. Discharge prohibited by Federal Regulations A User may not introduce into a POTW any pollutant(s) which may cause Pass Through Interference. These general prohibitions and the specific prohibitions below apply to each User introducing pollutants into a POTW whether or not the User is subject to National Pretreatment Standards or any national, State, or local Pretreatment Requirements. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes which can harm either the sewers, sewage treatment process or equipment, collection system, treatment plant headworks, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property or considered a nuisance. The substances prohibited are:

- (a) Solid or viscous substances in quantities or of such size capable of causing obstruction of flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- (b) Heat in the amounts which will inhibit biological activity in the POTW resulting in interference but in no case heat in such amounts that the temperature at the POTW treatment plant exceeds 40°C (104°F);
- (c) Pollutants which will cause corrosive structural damage to the POTW, but in no case Discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such Discharges;
- (d) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oils in amounts which would cause interference or passthrough;
- (e) Any pollutant that results in the presence of toxic gases, vapors or fumes within the POTW in any quantity that may result in worker health and safety problems;
- (f) Pollutants which create a fire or explosive hazard in the POTW, including but not limited to, wastestreams with a closed cup flashpoint of less than 140°F or 60°C using the test methods

specified in 40 CFR 261.21;

(g) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW;

(h) Any trucked or hauled pollutants, except at discharge points designated by the Executive Director.

2. Discharge prohibited on opinion of the Executive Director of Lowell Regional Wastewater Utility. The following discharges are prohibited from entering the wastestream without the explicit, written approval of the Executive Director or his/her designee. In forming his/her opinion as to the acceptability of these wastes, the Executive Director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:

(a) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

(b) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or in combination with other substances to cause fire or explosion, or be injurious in any other way to the POTW or its operation. At no time shall two

(2) consecutive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five (5) percent, nor any single reading be more than ten (10) percent of the Lower Explosive Limit (LEL) of the meter.

Prohibited materials include, but are not limited to: fuel oil, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides, and any other substance which is a fire hazard or a hazard to the system;

(c) Any waters or wastes having a pH lower than six (6) or higher than nine and five tenths (9.5);

(d) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall any substance discharged to the POTW cause the POTW to violate its own NPDES and/or state disposal system permit or the receiving water quality standards;

(e) It shall be unlawful for any person to discharge into the sewer system or cause to be discharged into the sewer system, the sludge resulting from the pretreatment of water or wastewater;

(f) Except where expressly authorized to do so by an applicable federal categorical pretreatment standard, no user, whether

subject to categorical requirements or not, shall ever increase the use of process water or in any other way attempt to dilute the discharge as a partial or complete substitute for adequate treatment to achieve compliance with a categorical standard. The control Authority may impose mass limitations on the user where the imposition of mass limitations is appropriate;

(g) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (zero (0) to sixty-five (65) degrees Celsius);

(h) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 horsepower metric) or greater shall be subject to the review and approval of the Executive Director of the Lowell Regional Wastewater Utility of his/her designee;

(i) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not;

(j) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting excessive chlorine requirement to such degree that any such

material received in the composite sewage at the sewage treatment works exceeds the limits established by the Executive Director of the Lowell Regional Wastewater Utility for such materials;

(k) Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the Executive Director, as necessary after treatment of the composite sewage to meet the requirements of state, federal, or the public agencies having jurisdiction over discharge to the receiving waters;

(l) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Executive Director in compliance with applicable state or federal regulations;

(m) Materials which exert or cause:

- 1) Unusual concentrations of inert suspended solids, such as, but not limited to, fuller's earth, lime slurries and lime residues; or of dissolved solids, such as, but not limited to, sodium chloride and sodium sulfate;

- 2) Excessive discoloration, such as, but not limited to, dye wastes and vegetable tanning solutions;

- 3) Unusual volume of flow or concentration of wastes constituting slugs;

(n) Waters or wastes containing substances which are not amenable

to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment plan effluent cannot meet with requirements of other agencies having jurisdiction over discharge to the receiving waters;

(o) Any sludges, screenings or residues from the pretreatment of industrial wastes;

(p) Any wastewater causing the treatment plant's effluent to fail a toxicity test.

3.3 All measurements of volume and characteristics of ANDOVER USERS' wastes shall be made by Meters constructed or installed and maintained by said ANDOVER USERS. All flow measurements made at the meters for ANDOVER USERS will be transmitted to TEWKSBURY.

3.4 Industrial wastes from ANDOVER USERS shall be judged by the same standards as are in effect within TEWKSBURY'S Sewerage System, notwithstanding the provisions of Paragraph 3.2 of this ARTICLE.

ARTICLE IV

AGREEMENT TERM

4.1 The provisions of this Agreement shall run concurrently with the TEWKSBURY-LOWELL Intermunicipal Agreement and any extensions thereof for a total term not to exceed twenty-five years from the date hereof subject to the provisions of ARTICLE XI.

ARTICLE V

IMPLEMENTATION

- 5.1 TEWKSBURY agrees to provide a sewerage system to handle wastes from ANDOVER USERS as may be approved by TEWKSBURY and ANDOVER. No ANDOVER USER may apply to TEWKSBURY to connect to TEWKSBURY'S sewage system unless and until Andover's Sewer Commissioners and Board of Health gives approval to said ANDOVER USER to connect to the TEWKSBURY sewage system. No approval shall be given by TEWKSBURY to an ANDOVER USER to connect to the TEWKSBURY sewage system unless ANDOVER gives such approval to said ANDOVER USER.

ARTICLE VI

USER CHARGES

- 6.1 User Charges:
- 6.1.1. TEWKSBURY shall develop, an equitable Outsider User Charge Rate applicable to ANDOVER USERS who shall use TEWKSBURY'S sewage system.
- 6.1.2 TEWKSBURY, upon approval of its Outside User Charge Rate, must incorporate said rate in one or more municipal sewer regulations.
- 6.1.3 All fees, costs and charges relating to the use by ANDOVER USERS of TEWKSBURY'S Sanitary Sewage System shall be billed and collected by TEWKSBURY. After July 1, 1999, TEWKSBURY shall bill ANDOVER at the rate charged by TEWKSBURY for said fees, costs, and charges and ANDOVER shall thereupon bill the ANDOVER USER at that rate charged by TEWKSBURY. ANDOVER may include a service fee or administrative charge for participating

in such billing ANDOVER'S obligations to pay TEWKSBURY for said bills and charges are subject to approval and appropriation by ANDOVER'S town meeting. ANDOVER shall proceed in good faith and use reasonable efforts to submit, support and receive approval at its annual town meeting to allow ANDOVER to conduct the requirements of this paragraph, including the billing of ANDOVER USERS for the fees, costs, and charges relating to the use of TEWKSBURY'S sanitary sewage system. The ANDOVER USERS shall comply with any other billing arrangement which TEWKSBURY and ANDOVER may enter into after the execution of this Agreement. The charges owed by all ANDOVER USERS shall be considered municipal charges as such are defined by M.G.L. ch. 40 and M.G.L. ch. 60. All charges shall constitute a lien against the property of any ANDOVER USER and ANDOVER and TEWKSBURY shall be entitled and permitted to lien, collect and take any other action as permitted by said G.L. 40 and G.L. 60 to collect any fee, cost, and charge against any ANDOVER USER.

ARTICLE VII

PAYMENT OF COSTS

7.1 The ANDOVER USERS who are granted the right and license to extend, connect and use TEWKSBURY'S sanitary sewer system by TEWKSBURY and ANDOVER and who enter into a user agreement with TEWKSBURY and ANDOVER shall be responsible for the following costs:

7.1.1 The reasonable costs of any police services required for rerouting of traffic or other traffic duties during any construction work performed in extending or constructing

the sewage system to the ANDOVER USERS' site.

7.1.2 The costs of any plans, specifications or other documents as may be required by TEWKSBURY and ANDOVER for any extension, connection or use, including any costs incurred by ANDOVER and TEWKSBURY for engineering, consultants, and attorney's fees.

7.1.3 To TEWKSBURY the Outsider User Rate per 1000 gallons of sewage actually used by said user and discharged into the sewer system.

7.1.4 The costs to extend or connect said sewer system to said user's property, facility, or building.

ARTICLE VIII

RIGHTS AND DUTIES

8.1 The term of this Agreement shall run concurrently with the TEWKSBURY-LOWELL Intermunicipal Agreement and any extensions thereof, but the total term shall not exceed twenty-five (25) years from the date hereof unless renewed as provided herein during which time ANDOVER USERS shall have the right to the continued use of TEWKSBURY'S sewerage works for as long as those sewerage works remain in active use. The right shall be limited to the terms and provisions established by the agreement entered by the ANDOVER USERS with ANDOVER and TEWKSBURY. In the twenty-third (23rd) year of this Agreement, the parties shall begin negotiating for a second term of the contract. A second term of the Agreement must be approved by the respective Town Meetings of ANDOVER and TEWKSBURY prior to expiration of this original twenty-five (25) year

agreement, unless applicable state law or local rule, approved warrant article or regulation provides otherwise. In the event that the new Agreement has not been finalized at the end of the twenty-five year period, the ANDOVER USERS covered by the original Agreement are still bound to the requirements of the LOWELL Industrial Pretreatment Program. No new connection or industrial users will be added to the system until the new Agreement is finalized.

- 8.2 Each party shall truly and faithfully perform its duties, all the undertakings, covenants, terms and conditions of this agreement during the term of this agreement, and any extension thereof which may be granted and subject further to the following:

8.2.1 ANDOVER shall assume the defense of and indemnify and hold harmless TEWKSBURY including TEWKSBURY'S Town Manager, agents, servants, employees, and/or elected officials from and against all liability, damage, loss, claim, demands, and actions of any nature whatsoever which arise out of or are connected with or are claimed to arise out of or be connected with the failure of ANDOVER to adopt sewer use and regulations as required by this Agreement, or to assist with the enforcement of this Agreement with respect to any ANDOVER USER as required by Article 3.1.

8.2.2 TEWKSBURY shall assume the defense of and indemnify and hold harmless ANDOVER, including ANDOVER'S Sewer Commission, agents, servants, employees, and/or elected officials from and against all liability, damage, loss, claim, demands, and actions of any nature whatsoever which arise out of or be connected with any provision, term, and condition, etc. of this agreement,

including, without limiting the generality of the foregoing thereto, all liability, damage, loss, claims, demands and action of account of personal injury, death or property loss experienced by ANDOVER, its Sewer Commission, its agents, servants, employees and/or elected officials, whether or not caused or claimed to have been caused by active or inactive negligence, or other breach of duty by the Town of TEWKSBURY, its agents, Town Manager, elected officials and/or employees. TEWKSBURY shall at its own expense investigate all such claims and demands against ANDOVER, its Sewer Commission, agents and/or employees, attend to claim settlement or other disposition, defend all actions based thereon and pay all charges or attorney's fees and all other costs and expenses of any kind arising from any such liability, loss, claims, demands, and actions.

- 8.2.3 In the event ANDOVER or TEWKSBURY does not receive payment from any ANDOVER USER for the Outside User Rate charges or any license fee as may be imposed by the agreement between ANDOVER, TEWKSBURY, and the ANDOVER USER then the ANDOVER USER shall be prohibited from extending, connecting or using their sewer system utilizing the TEWKSBURY connection until all payments due together with any interest and late charges are paid in full. TEWKSBURY shall be entitled to proceed directly against any such ANDOVER USER for the collection of any of said fees or charges.

ARTICLE IX

ALLOCABLE SHARE

- 9.1 The amount of actual daily gallon usage as approval for any ANDOVER USER shall be

considered as part of TEWKSBURY'S allocable share of usage from Lowell's Wastewater Treatment System. ANDOVER and TEWKSBURY shall forward to LOWELL a copy of all User Agreements for any ANDOVER USER.

ARTICLE X

RULES AND REGULATIONS

- 10.1 With respect to ANDOVER USERS, ANDOVER and TEWKSBURY shall adopt and implement Lowell's Industrial Sewer Use Ordinance in accordance with Article XIII of this Agreement and shall amend said Sewer Use Ordinance within ninety (90) days of notification by LOWELL of any changes, modifications or amendments to said Rules and Regulations. These rules and regulations shall subject all ANDOVER USERS to the Lowell's Pretreatment Program if said are applicable.

ARTICLE XI

CONFORMANCE TO LAW

- 11.1 With respect to ANDOVER USERS, ANDOVER and TEWKSBURY hereby agreed to abide by, and conform to, all applicable laws of the United States and the Commonwealth of Massachusetts, together with such rules and regulations as LOWELL may promulgate from time to time with regard to its sewerage works.
- 11.2 No person(s), individual, owner, user, corporation or other entity or grouping shall be authorized to connect, extend, or use Tewksbury's sewage system without entering into an User Agreement with Andover and Tewksbury and without receiving all other necessary or required approvals, licenses and permits to make such connection, extension, or use of said sewage system. Lowell, Tewksbury and/or Andover may bring an action against any

person, individual, owner, user, corporation or other entity who connects, extension, or uses said sewage system without complying with the terms hereof.

11.3 After the execution of this Agreement, the parties shall submit this Agreement to LOWELL for submission by LOWELL to the Environmental Protection Agency for its review and approval pursuant to the applicable code of Massachusetts Regulations.

11.4 If any term or provision of this Agreement or the application thereof to any person, property or circumstance shall to any extent be invalid or unenforceable, or if any agency, board, commission or division of the state or federal government or any court determines or declares any provision of this Agreement to be illegal, invalid, or unenforceable then, the remainder of this Agreement or the application of such term or provision to persons, properties and circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE XII

INDUSTRIAL SEWER USE ADDENDUM

12.1 TEWKSBURY and ANDOVER shall enter as part of this Agreement an Industrial Sewer Use Addendum attached hereto. The Industrial Sewer Use Addendum is incorporated herein by reference.

IN WITNESS WHEREOF, TEWKSBURY and ANDOVER have caused their proper representative on the day and year first above written.

FOR THE TOWN OF ANDOVER, MASSACHUSETTS

By Its Sewer Commissioners

Approved only as to Form

Town Counsel

BOARD OF SELECTMAN

By its Chairman

FOR THE TOWN OF TEWKSBURY, MASSACHUSETTS

By Its Town Manager

Approved as to Form

Approved only as to Form

Town Counsel

FOR THE CITY OF LOWELL, MASSACHUSETTS

City Manager

Commissioner of Public Works

Approved only as to Form

City Solicitor

INDUSTRIAL SEWER USE ADDENDUM

ADDENDUM made this _____ day of August, 1998 between THE CITY OF LOWELL ("LOWELL"), THE TOWN OF TEWKSBURY ("TEWKSBURY") and THE TOWN OF ANDOVER ("ANDOVER"), and all municipal corporations within the County of Middlesex.

WHEREAS LOWELL, TEWKSBURY and ANDOVER desire to enter an Industrial Sewer Use Addendum as part of the TEWKSBURY-ANDOVER Agreement.

NOW THEREFORE, for mutual consideration, the parties agree with respect to ANDOVER USERS as follows:

1. A. TEWKSBURY has adopted and ANDOVER will adopt Local Industrial Sewer Use Rules and Regulations which are no less stringent and are as broad in scope as the sewer use ordinance Chapter 18, Article 3 of the Code of Ordinances of the City of Lowell. TEWKSBURY and ANDOVER will forward to LOWELL and Environmental Protection Agency for review a draft of its proposed Industrial Sewer Use Rules and Regulations within the later of ninety (90) days of receipt of LOWELL'S Industrial Sewer Use and Regulations or ninety (90) days of the date of execution of all parties of this Addendum. TEWKSBURY and ANDOVER will adopt its Industrial Sewer Use Rules and Regulations within sixty (60) days of receiving approval from LOWELL and Environmental Protection Agency of its content.
- B. Whenever LOWELL revises its Industrial Sewer Use Regulations it will forward a copy of the revisions to TEWKSBURY and ANDOVER.

TEWKSBURY and ANDOVER will adopt revisions to its Sewer Use Rules and Regulations that are at least as stringent as those adopted by LOWELL. TEWKSBURY and ANDOVER will forward to LOWELL and Environmental Protection Agency for review its proposed revisions within ninety (90) days of receipt of LOWELL's revisions. TEWKSBURY and ANDOVER will adopt its revisions within sixty (60) days of receiving approval from LOWELL of the content thereof. If TEWKSBURY has adopted a requirement which is more stringent than LOWELL'S requirement, ANDOVER shall adopt the more stringent requirement. ANDOVER shall adopt the more stringent requirement in accordance with the same ninety day (90) time period for forwarding a draft and sixty day time period for adoption following approval as described above.

- C. TEWKSBURY has adopted and ANDOVER will adopt within its local Industrial Sewer Use Rules and Regulations pollutant specific local limits which address at least the same pollutant parameters and are at least as stringent as the local limits enacted by LOWELL within sixty (60) days of the execution of this Addendum. If LOWELL makes any revisions or additions to its local limits, LOWELL will forward to TEWKSBURY and ANDOVER a copy of such revisions or additions within thirty (30) days of enactment thereof. TEWKSBURY-ANDOVER will adopt any such revisions or additions within ninety (90) days of receipt thereof.

2. A. With respect to ANDOVER USERS, ANDOVER designates LOWELL as the agent of ANDOVER for the purposes of implementation and enforcement of ANDOVER'S Industrial Sewer Use Rules and Regulations against industrial users located in ANDOVER. LOWELL may take any action under ANDOVER'S Industrial Sewer Use Rules and Regulations that could have been taken by ANDOVER, including the enforcement of the Rules and Regulations in courts of law.
- B. LOWELL, on behalf of and as agent for ANDOVER will perform technical and administrative duties necessary to implement and enforce ANDOVER'S Industrial Sewer Use Rules and Regulations. LOWELL will (1) update the industrial waste survey; (2) issue permits to all industrial users required to obtain a permit; (3) conduct inspections, sampling, and analysis; (4) take all appropriate enforcement action as outlined in LOWELL's enforcement response plan and provided for in ANDOVER's Industrial Sewer Use Rules and Regulations, and (5) perform any other technical or administrative duties the parties deem appropriate. In addition, LOWELL may, as agent of ANDOVER, take emergency action to stop or prevent any discharge which presents or may present an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, pass through, or sludge contamination. Any ANDOVER USER shall also be required to obtain connection permits and approvals from the ANDOVER Board of Selectman and ANDOVER Board

of Health.

3. LOWELL will be responsible for all costs incurred by it in implementing and enforcing ANDOVER's Industrial Sewer Use Rules and Regulations. LOWELL will bill industrial users directly for sampling and related costs in accordance with Chapter 18 of Article 3 of the Code of Ordinances of the City of Lowell. The parties acknowledge that LOWELL may impose additional charges to recover pretreatment program costs. Any such charge imposed by LOWELL will be billed by LOWELL.
4.
 - A. If any term of this Addendum is held to be invalid in any judicial action, the remaining terms will be unaffected.
 - B. The parties will review and revise this Addendum to ensure compliance with the Federal Clean Water Act (42 U.S.C. Section 1251 et seq.) and rules and regulations (see 40 CFR Part 403) issued thereunder, as necessary, but at least once every five (5) years on a date to be determined by the parties.
 - C. ANDOVER will indemnify and hold harmless LOWELL and TEWKSBURY for any costs incurred due to the failure of ANDOVER to adopt any changes or modifications as required within this Addendum.
5. If the authority of LOWELL to act as agent for ANDOVER under this Addendum is questioned by an industrial sewer user, court of law, or otherwise, ANDOVER will take whatever action is necessary to ensure the implementation and LOWELL'S enforcement of its industrial sewer use rules and regulations against its industrial sewer users, including, but not limited to, implementing and enforcing its industrial

sewer use rules and regulations on its own behalf, amending this Addendum to clarify LOWELL's authority or assisting in the enforcement of the said Industrial Sewer Use Rules and Regulations for any ANDOVER USER.

IN WITNESS WHEREOF, LOWELL, TEWKSBURY and ANDOVER have caused this Agreement to be executed by proper representatives on the day and year first above written.

FOR THE TOWN OF ANDOVER, MASSACHUSETTS

By Its Sewer Commissioners

Approved only as to Form

Town Counsel

BOARD OF SELECTMAN

By Its Chairman

FOR THE TOWN OF TEWKSBURY, MASSACHUSETTS

By Its Town Manager

Approved only as to Form

Town Counsel

FOR THE CITY OF LOWELL, MASSACHUSETTS

City Manager

Commissioner of Public Works

Approved only as to Form

City Solicitor

ASSIGNMENT OF AGREEMENT/LICENSE

This ASSIGNMENT OF AGREEMENT/LICENSE is executed and delivered as of the 14 day of March, 1997, by and between JEFFREY D. SHEEHY and AUGUSTINE P. SHEEHY, individually, jointly and severally d/b/a Dundee Properties (collectively "SHEEHY") of 30 Glenn Street, Lawrence, Massachusetts 01843, JEFFREY D. SHEEHY, as Trustee of the Osgood Street Trust ("OSGOOD") under declaration of trust dated January 17, 1986 and recorded in the Essex North District Registry of Deeds in the Land Court Department as Document No. 39288, with Transfer of Title No. 10232, in Land Court Book 73, Page 137, AUGUSTINE P. SHEEHY, Trustee of Frontage Road Trust, under declaration of trust dated January 17, 1986 and recorded in the Essex North District Registry of Deeds Land Court Department as Document No. 39286 with Transfer of Title No. 10231, in Land Court Book 73, Page 129, ("FRONTAGE") all collectively referred to as ("ASSIGNORS") and Vicor Corporation, a Delaware Corporation of 23 Frontage Road, Andover, Massachusetts ("VICOR" or "ASSIGNEE").

WHEREAS, ASSIGNORS and ASSIGNEE have executed an Agreement for the Assignment of Rights in Agreement/License of even date which provides for the assignment, sale, transfer, conveyance and delivery of the ASSIGNEE's rights, titles, interests and licenses in and to a certain Agreement/License between the ASSIGNORS and the Town of Tewksbury dated July of 1988;

WHEREAS, ASSIGNORS desire to assign, sell, transfer, convey and deliver any and all of their rights, titles, interests and

licenses in said Agreement/License and ASSIGNEE desires to accept the delivery of the assignment, sale, transfer and conveyance of said rights, titles, interests and licenses;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein and contained in the Agreement between the parties of even date and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. ASSIGNORS hereby sell, assign, transfer, convey and deliver all of ASSIGNOR's rights, titles, interests and licenses in and to a certain Agreement/License between the ASSIGNORS and the Town of Tewksbury, Massachusetts dated July of 1988, a copy of said Agreement/License is attached hereto as Exhibit "A" and incorporated herein by reference ("Agreement/License").
2. ASSIGNEE hereby accepts the foregoing assignment, transfer, sale, conveyance and delivery by ASSIGNORS and hereby assumes and agrees to perform all of ASSIGNORS obligations under the Agreement/License.
3. ASSIGNORS hereby represent and warrant to ASSIGNEE that (a) they have full power, authority and legal right to execute and delivery this Assignment; (b) no other assignment of any interest in the rights and licenses contained in the Agreement/License has been made by any of the ASSIGNORS; (c) this Assignment constitutes a valid and binding obligation of the ASSIGNORS; and, (d) that this Assignment assigns, sells,

transfers and delivers all of ASSIGNORS' rights and licenses under the terms of the Agreement/License.

For Vicor's title, see Transfer Certificate of Title No. 11258 in the Land Court Department of the Essex North District Registry of Deeds in Land Court Book 83, Page 237.

IN WITNESS WHEREOF, ASSIGNORS and ASSIGNEE have caused this Assignment to be executed and sealed this 19 day of March, 1997.

ASSIGNORS:

OSGOOD STREET TRUST

Linda L. Brobst
Witness

By: Jeffrey D. Sheehy
Trustee

FRONTAGE ROAD TRUST

Linda L. Brobst
Witness

By: Augustine P. Sheehy
Trustee

Linda L. Brobst
Witness

Jeffrey D. Sheehy
Individually and d/b/a
Dundee Park Properties

Linda L. Brobst
Witness

Augustine P. Sheehy
Individually and d/b/a
Dundee Park Properties

ASSIGNEE:

VICOR CORPORATION

JP Chen
Witness

By: Patrizio Vinciarelli
Patrizio Vinciarelli,
its President

VICOR CORPORATION

Mark A. Glazer
Witness

By: Mark A. Glazer
Mark A. Glazer
its Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

March 19, 1997

Then personally appeared the above-named Patrizio Vinciarelli, as President of Vicor Corporation and made oath that the above instrument was executed by him as President and is the duly authorized act and deed on behalf of said corporation, before me,

Corrine Camille Haskins
Notary Public
My Commission Expires: 9/21/2001

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

March 19, 1997

Then personally appeared the above-named Mark A. Glazer, as Treasurer of Vicor Corporation and made oath that the above instrument was executed by him as President and is the duly authorized act and deed on behalf of said corporation, before me,

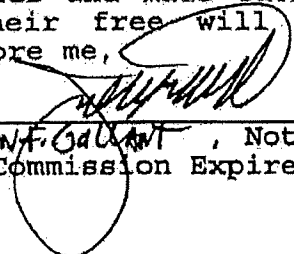
Corrine Camille Haskins
Notary Public
My Commission Expires: 9/21/2001

COMMONWEALTH OF MASSACHUSETTS

Essex
Middlesex, ss

March 9, 1997

Then personally appeared the above-named Jeffrey D. Sheehy and Augustine P. Sheehy, individually, as Trustees of the above named Trusts, and d/b/a Dundee Park Properties and made oath that the above instrument was executed as their free will and deed, individually and as said Trustees, before me,



John F. Gallant, Notary Public
My Commission Expires: 12/4/98

vicor\30a&b\assign

EXHIBIT A

AGREEMENT/LICENSE

This Agreement is made by and between the Town of Tewksbury, a Massachusetts municipal corporation with a usual place of business at Town Hall, Tewksbury, Massachusetts, by its Town Manager ("Town"), and Augustine P. Sheehy and Jeffrey D. Sheehy, jointly and severally, d/b/a Dundee Park Properties ("Sheehy"), with a usual place of business at 30 Glenn Street, Lawrence, Massachusetts 01843, and Augustine P. Sheehy, Trustee, Frontage Road Trust, under declaration of trust dated January 17, 1986, and recorded in Essex North District Registry of Deeds, Document No. 39286; and Jeffrey D. Sheehy, Trustee, Osgood Street Trust, under declaration of a trust dated January 17, 1986, and recorded in said Registry, Document No. 39288.

WHEREAS, Sheehy is the owner of certain real property located in Andover, Massachusetts, shown on Andover Assessor's Map 179, Lots 30A, 30B, 30E, 30T, 32 & 33, ("Property") and more particularly described in Certificates of Title recorded with Essex North District Registry of Deeds; Lots #3 and #5 owned by Augustine P. Sheehy, Trustee, Frontage Road Trust, Certificate of Title #10231 Essex North Registry Land Court Division; Lot #4 owned by Jeffrey D. Sheehy, Trustee, Osgood

Street Trust, described in Certificate of Title #10233, Essex North Registry Land Court Division. Lots as shown on Land Court Plan #20282C dated August 23, 1979, Essex North District Registry of Deeds, and;

WHEREAS, the Property is not presently served by the sanitary sewer system of the Town (the "System") or by the sanitary sewer system of the Town of Andover. The System extends only to a point in East Street, Tewksbury which is approximately three thousand (3,000) feet from the southwest boundary of the said property; and

WHEREAS, the Property is shown on the attached plan entitled "Conceptual Plan for Sewer Extension on East Street, Dascomb and Frontage Roads" ("Conceptual Plan") prepared by Lea Group, Inc.; and

WHEREAS, Brockway-Smith, Inc. and Connecticut General Life Insurance Company have or intend to enter into a similar agreement and license with the Town; and

WHEREAS, Sheehy desires that the Property shall be served by the System and is willing to construct the facilities (the "Project") which are necessary in order to accomplish an appropriate connection to the System; and

WHEREAS, the Town is willing to:

(i) to allow Sheehy, upon the payment of a certain fee, specified below, the right to connect into and use the System and Sheehy is to have a usage capacity upon such connection of a maximum of 20,000 gallons per day; and

(ii) to enter into such other agreements with Sheehy which are more particularly set forth below.

NOW, THEREFORE, for valuable consideration, the sufficiency of which is acknowledged by all parties, the Town and Sheehy agree as follows:

1. Sheehy shall have the right, at their option and at their sole cost and expense, to extend the East Street sewer beyond manhole station 6 + 36 on the Conceptual Plan of the proposed sewer route, and any such extension by Sheehy shall be in accordance to the requirements of the conceptual Plan.

2. Sheehy, in regard to this project, shall pay for:

(i) the reasonable costs of any additional police services required for rerouting of traffic or other traffic duties during any construction work performed by Sheehy in extending the sewer beyond manhole station 6 + 36 as shown on the Conceptual Plan;

(ii) the reasonable costs of the review of plans, specifications and other documents by Camp, Dresser & McKee ("CDM"), or other engineer designated by the Town, prior to the date of this Agreement/License and the reasonable costs of periodic inspections made by CDM or other Town consultants, deemed necessary and reasonable by CDM, during the course of the Project construction work being performed by Sheehy beyond manhole station 6 + 36 on the Conceptual Plan; and

(iii) all other necessary and reasonable costs incurred by the Town after the execution of this agreement that

are directly attributed to the construction of the sewer extension by Sheehy beyond manhole station 6 + 36 on the Conceptual Plan.

3. Sheehy shall, upon receipt of timely written notice, indemnify, hold harmless and defend the Town, its agents, employees, and officers from and against any and all liabilities, claims, penalties, fines, forfeitures, suits, administrative proceedings and the costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorney's fees) which may be alleged against the Town or which the Town may incur, become responsible for, or pay out as a result of death or bodily injury to any person, destruction or damage to any property or any violation or alleged violation of governmental laws, regulations or orders, all caused by or resulting from the negligent acts or omissions of any officer, employee, contractor or agent of Sheehy in performing the work to extend the sewer by Sheehy. Sheehy shall be entitled to participate in any action, suit or proceeding brought against the Town under this Paragraph 3 and, to the extent they may wish, to assume the defense thereof, with counsel reasonably satisfactory to the Town. Sheehy shall not be liable for any settlement of any such action, suit or proceeding effected without the prior written consent of Sheehy.

4. Sheehy shall have the continuing right, at their option, to use the Town's sewer and to connect into the East Street sewer at any time after Sheehy's completion at manhole station 6 + 36 as shown on the Conceptual Plan and upon such connection Sheehy shall have the right to a usage capacity of a maximum flow of 20,000 gallons per day, all without any further cost of a connection fee to Sheehy except for the fee stipulated in Paragraph 5 of this Agreement:

If Sheehy ties-in as stated in the first sentence of this paragraph:

- (i) Sheehy and their successors shall be obligated to pay user fees as herein provided;
- (ii) Sheehy shall design and construct the connecting line, all at their sole cost;
- (iii) that portion of the connecting line in the Town from manhole station 6 + 36 on the Conceptual Plan shall, upon completion of said line and upon approval and acceptance by the Town, shall become the property of the town; and
- (iv) the Town, upon full payment, grants to Sheehy, without the necessity of any further documentation, an irrevocable license for purposes of installing and constructing that portion of the East Street sewer which lies between manhole station 6 + 36 to

the Town line on the Conceptual Plan including, without limitation, the right to remove pavement and to perform all other necessary work, and Sheehy agrees that, in exercising their rights under this License, Sheehy shall notify the Town of the date upon which construction is to be commenced and shall restore the areas affected to the condition existing before such construction as soon as possible and without any undue delay.

5. Sheehy shall pay a one-time fee to the Town in the amount of One Hundred and Fifty Thousand and 00/100 (\$150,000.00) Dollars ("Entry Fee") in consideration for the rights stipulated in this Agreement/License including, without limitation, the right to tie-in and use the Town's sewer as specified in Paragraph 4. Simultaneously with the execution of the Agreement/License, Sheehy shall pay a non-refundable deposit of Fifty Thousand and 00/100 (\$50,000.00) Dollars, payable on or before June 21, 1988, and balance due when the Property is rezoned to ID or IA District by the Town of Andover or June 21, 1993, whichever shall first occur, time being of the essence. Sheehy shall have the right to an extension of three years, upon the same conditions and upon written notice five days before June 21, 1993, if said rezoning shall not have been approved as of June 21, 1993.

Sheehy shall pay ten (10.00%) percent interest per year on the One Hundred Thousand (\$100,000.00) Dollar balance payable on the 21st of each month. Interest shall be \$10,000

per year payable in monthly installments of \$833.33. In the event Sheehy shall fail to make timely payment, this Agreement shall be null and void if the Town so declares in writing regardless of any other provision of this Agreement.

The Town agrees that, upon payment by Sheehy of the Entry Fee, Sheehy shall not be subject to nor be liable for any other assessments, costs, charges or fees by reason of the connection to or construction, operation and maintenance by the Town of the East Street sewer southwesterly from manhole station 6 + 36 and that the Entry Fee is in lieu of any and all other such assessments, fees, charges and costs, except for a sewer usage fee established by the Town for outside users. The current outside user rate is \$3.00 per 1000 gallons, and the parties agree that the outside user rate may be changed or increased from time to time by the Town. Sheehy agrees, however, they are liable for all construction, operation and maintenance of that portion of the sewer and system which is northeasterly of manhole station 6 + 36 or in the Town of Andover.

6. The rights granted to Sheehy pursuant to this Agreement/License may be freely assignable by Sheehy without payment of any assessments, fees, charges or costs to the Town by any subsequent owner or any future tenant of each such Sheehy's Property, except for sewer user fees. Any assignee of Sheehy shall assume all debts and liabilities of Sheehy and Sheehy shall not be thereafter liable for any claim, costs, or demands arising out of the Agreement/License in damages of any type in law or equity.

and install the meters and meter equipment measuring and controlling the supply of water, which shall be located on Sheehy's Property.

The properly authorized officers, agents, and representatives of the Town shall at all times have free access to the meter or meters for the purpose of reading the registration of said meter or meters, and to examine and test the same to ascertain whether or not they are in good condition and repair. If, at any time, the said meter or meters shall fail to register correctly the quantity of water furnished and taken hereunder, or shall fail to register the flow of water through said meter or meters, and, therefore, shall prove unsatisfactory to the Town, they shall be replaced or repaired by Sheehy and the cost and expense of such replacement or repairs shall be paid by Sheehy.

8. It is further agreed that the Town may either in law or equity, by suit, mandamus or other proceeding, enforce or compel performance of any and all covenants herein contained and that if Sheehy or his assignee, in which case Sheehy shall not be liable, shall refuse, neglect, fail to pay promptly the sewer bills properly rendered, the Town may bring suit against Sheehy for the collection of such monies and/or for the termination of the use of the system, except that notwithstanding the foregoing before the Town exercises its remedies as stated herein, in the event the breach of this Agreement/License by Sheehy is non-monetary, Sheehy shall have thirty (30) days, after written notice thereof, to cure said

breach and if not capable of cure in such time then, using all due diligence, a reasonable period thereafter and, if, however, the breach of this Agreement/License is monetary, Sheehy shall have twenty (20) days, after written notice, to cure said breach.

9. All notices sent pursuant to this Agreement/License shall be properly given if sent personally (where a receipt is obtained) or if by certified mail, return receipt requested, postage prepaid or by Federal Express, Express Mail or some other form of expedited delivery to the Town at:

Mr. David G. Cressman, Town Manager
Tewksbury Town Hall
Tewksbury, MA 01876

with a copy sent simultaneously to:

Charles J. Zaroulis, Esq.
Tewksbury Town Counsel
9 Middlesex Street
Lowell, MA 01852

and to Sheehy at:

Mr. Augustine P. Sheehy
c/o Dundee Park Properties
P.O. Box 3099
Andover, MA 01810

and also to:

Mr. Jeffrey D. Sheehy
c/o Dundee Park Properties
P.O. Box 3099
Andover, MA 01810

or to such other address as shall be specified by any party in like manner.

10. Plans shall be prepared at the sole cost and expense of Sheehy and shall be submitted to the Town and its engineers,

CDM, for review, and the reasonable costs of such review by CDM incurred by the Town shall be borne by and reimbursed by Sheehy.

11. Sheehy shall be responsible for the construction work for the sewer extension by Sheehy beyond manhole station 6 + 36 on the Conceptual Plan and will obtain all necessary easements, permits and licenses concerning such construction, together with the approval, if necessary, of the Town of Andover permitting Sheehy to tie into the System.

12. During the course of Sheehy's construction of the sewer extension as stated herein, the Town (after obtaining the permission of the Town of Andover, if necessary) will have the right to inspect construction both on the street and on the Property and the Town will receive two (2) sets of as-built plans on reproducible mylar sepia.

13. Sheehy will abide by all rules and regulations of the Town in connection with construction within public ways in the Town, including, without limitation, the securing of permits for "street opening", and, all construction shall be performed by Sheehy in a good and workmanlike manner and in accordance with the plans and specifications to be submitted to the Town and approved by the Town. Sheehy will abide by all rules and regulations of the Town regarding sewers and pre-treatment of industrial waste, as they may be amended from time to time.

14. This Agreement/License shall bind and inure to the benefit of and be enforceable by the parties and their

respective heirs, personal representatives, successors and assigns and to any purchaser of any portion of the Property.

The parties agree that they will duly execute any and all documents that are necessary to effect a recordation of the entire agreement with the Essex North District Registry of Deeds and the Middlesex North District Registry of Deeds.

15. The sewer line constructed by Sheehy shall have a minimum capacity of 60,000 gallons per day and it is understood by the parties that the Town has the right at its sole and absolute discretion to permit other properties or owners to connect to said sewer line constructed by Sheehy in order to use any capacity above 20,000 gallons per day.

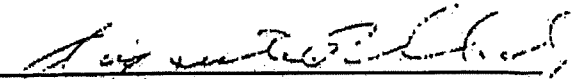
16. The Town of Andover agrees to the terms of this Agreement and authorizes and permits Sheehy to construct said sewer extension and to discharge sewerage into the System.

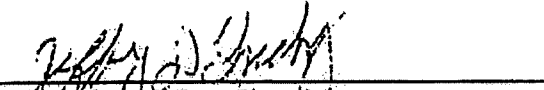
17. The parties acknowledge that Brockway-Smith Company, Inc., is a party to a similar agreement with the Town to tie into the Town System and that Connecticut General Life Insurance Company intends to enter into a similar agreement. It is understood by both parties that if all three property owners enter into an agreement for 20,000 gallons per day use for a total of 60,000 gallons per day, the Town, nevertheless, has the right at its sole and absolute discretion to permit other properties or owners to connect to said sewer line to use any capacity above 60,000 gallons per day.

18. This Agreement/License contains the entire agreement among the parties and cannot be changed, modified, waived or

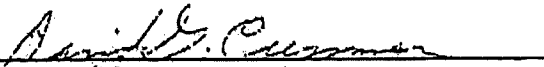
cancelled except by an agreement in writing executed by all parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement/License, by their duly authorized representative on the day of July, 1988.

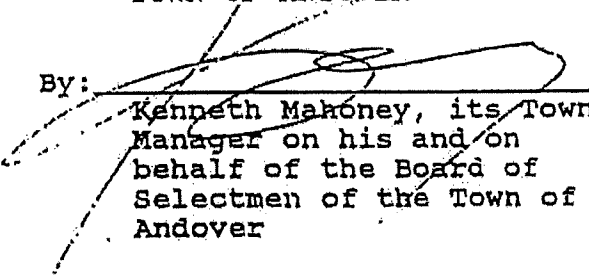
By: 
Augustine P. Sheehy
Individually and as Trustee

By: 
Jeffrey D. Sheehy
Individually and as Trustee

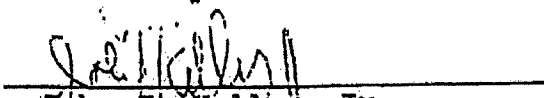
TOWN OF TEWKSBURY

By: 
David G. Cressman
Its Town Manager

TOWN OF ANDOVER

By: 
Kenneth Mahoney, its Town
Manager on his and on
behalf of the Board of
Selectmen of the Town of
Andover

Approved by the Board of
Selectmen of the Town of
Tewksbury

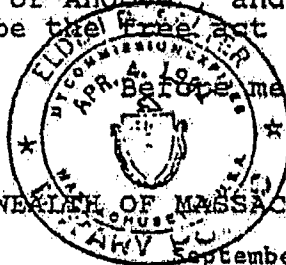
By: 
John P. Kelley, Jr.
Its Chairman

COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS.

September 20, 1988

Then personally appeared the above named Kenneth Mahoney
Town Manager of the Town of Andover, and acknowledged the
foregoing instrument to be the free act and deed of said Town.



Before me: *Edmund R. Lute*
Notary Public
My Commission Expires:

April 4, 1991

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

September 12, 1988

Then personally appeared the above named David G.
Cressman, Town Manager of the Town of Tewksbury, and
acknowledged the foregoing instrument to be the free act and
deed of said Town.

Before me: *Edwina M. Hudson*
Notary Public
My Commission Expires: 10/20/8

COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS.

7-22, 1988

Then personally appeared the above named Augustine P.
Sheehy, and acknowledged the foregoing instrument to be his
free act and deed individually and as Trustee of Frontage Road
Trust.

Before me: *John S. Sheehy*
Notary Public
My Commission Expires: *5-30-91*

COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS.

September 22, 1988

Then personally appeared the above named Jeffrey D.
Sheehy, and acknowledged the foregoing instrument to be his
free act and deed individually and as Trustee of Osgood Street
Trust.

Before me: *Edwina M. Hudson*
Notary Public
My Commission Expires:

MOTION

I hereby move that the Board vote to authorize the Chairman and the Town Manager to sign the Intermunicipal Sewer Use Agreement between Dascomb Road Limited Partnership and the Town of Tewksbury for the property at 160 Dascomb Road.